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ABSTRACT

Presented in the third of three documents is testimony given before the Senate Subcommittee on the Handicapped regarding the delivery of services to and programs for the handicapped. Included are statements from representatives of such agencies as the American Foundation for the Blind, National Easter Seal Society for Crippled Children and Adults, National Conference of Developmental Disabilities, and Association for Children with Learning Disabilities. Additional information, such as an article titled "Children with Osteogenesis Imperfecta," is also provided. (SBH)

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REVIEW OF PROGRAMS FOR THE HANDICAPPED, 1977

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON HUMAN RESOURCES
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

REVIEW OF PROGRAMS FOR THE HANDICAPPED

PART 3

FEBRUARY 28, AND MARCH 2, 21, AND 22, 1977

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REVIEW OF PROGRAMS FOR THE HANDICAPPED, 1977

MONDAY, FEBRUARY 28, 1977

U.S. Senate,
Subcommittee on the Handicapped of the
Committee on Human Resources,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9:30 a.m., in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph and Stafford.

Senator Randolph. A pleasant morning to our guests. We appreciate people who have followed with genuine interest and concern these hearings. This is the fifth of these sessions to review the programs that have been carried forward under the Federal laws for aid to the handicapped.

A little later this morning, we anticipate the presence of Senator Hubert Humphrey, but his schedule is subject to change from time to time, so we will move forward with the panel.

I do not know whether one person is to serve as a leadoff man or whether all three of you will give your testimony one by one.

Mr. Schloss, Mr. McDaniel and Mr. Robrahn, what is the situation?

Mr. Schloss. I am going to lead off. Reese Robrahn will give his testimony second, and then Durward McDaniel will give his.

Senator Randolph. That will be fine. We are happy to have the three of you.

If you will proceed.

STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR OF GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND, WASHINGTON, D.C.; REESE H. ROBRAHN, DIRECTOR OF RESEARCH AND GOVERNMENTAL AFFAIRS, AMERICAN COUNCIL OF THE BLIND, WASHINGTON, D.C.; AND DURWARD K. McDANIEL, CHAIRPERSON, AFFILIATED LEADERSHIP LEAGUE OF AND FOR THE BLIND OF AMERICA, WASHINGTON, D.C., A PANEL

Mr. Schloss. Mr. Chairman, I have submitted a written statement for the record and will summarize it if that is agreeable.

Senator Randolph. Your statement will be made a part of the record.

Mr. Schloss. The highlights of the statement that I would like to address at this point are, first, to indicate that in addition to representing the American Foundation for the Blind, I am also representing the

American Association of Workers for the Blind and Blinded Veterans Association. All three of these organizations endorse enactment of S. 725, the Education of the Handicapped Amendments of 1977, which will extend the discretionary grant programs under parts C, D, E, and F of the Education of the Handicapped Act.

In addition, we would like to urge the subcommittee to act this calendar year on extension and improvement of the Rehabilitation Act of 1973; and I would like to highlight several of the recommendations we made on behalf of the same three organizations in February 1976.

First, with regard to the population of visually handicapped children, it is estimated that there are some 66,000 visually handicapped children, of whom 23,000 are considered to be unserved in education programs today. An additional 19,000 are either deaf-blind or have very serious additional impairments to visual handicaps. Of that 19,000, it is estimated that 12,000 are not being served.

So we certainly support extension of part D for personnel training in the education of handicapped children to help to meet this need.

We do, however, recommend either an amendment or report language which would indicate to the Bureau for the Education of the Handicapped that they give specific attention to the needs of children with low prevalence handicapping conditions, such as the blind and visually handicapped, the deaf and hearing impaired, the deaf-blind, and the multihandicapped of various types.

In administrative practice, as we understand it, BEH makes bloc grants to universities for training of personnel; and, as so frequently happens in any block grant mechanism, whether it is to States or to a university, the specific needs of low prevalence groups do not get the attention that they need. As a result, the members of leadership personnel, in particular with regard to the visually handicapped—those people who are training to get doctoral degrees to staff teacher preparation programs at universities and to go into research programs for improvement of educational methods and techniques for educating visually handicapped children—have not kept up with even the normal attrition that one experiences in these programs.

Senator RANDOLPH. May I interrupt off the record.

[Discussion off the record.]

Mr. SCHLOSS. Therefore, we would recommend extension of part D with the increases in authorization contained in S. 725, with an amendment or report language to direct BEH from its national perspective to pay particular attention to the needs of the various low prevalence groups of handicapped children.

Another area of particular concern to us are the needs of preschool visually handicapped children with additional serious disabilities. We believe that with BEH direction, the personnel training provisions, research provisions, and the centers and services provisions under part C of the act can all be used to improve preschool programs for visually handicapped children with multiple impairments.

With regard to improvements in the Rehabilitation Act of 1973, I would like, on behalf of the three organizations I am representing, to highlight a few of our recommendations that we made last February.

One, in particular, deals with rehabilitation services for older blind persons.

As you know, Mr. Chairman, you introduced legislation in 1972 which established a target program in the rehabilitation of older blind persons. Services to older blind persons continued to be a major gap in the service program of vocational rehabilitation for the blind, which tend to concentrate on the needs of those blind and visually handicapped individuals of optimum employment age.

As a result of the vetoes in the fall of 1972 and the spring of 1973, the target programs for rehabilitation services to older blind persons was considerably contracted to special projects under section 304(b)(1) of the Rehabilitation Act of 1973.

However, the demonstration that has been underway in these programs has, we believe, proved to justify the need for expansion. Six States—Arkansas, Colorado, Oregon, Texas, Virginia, and West Virginia—have received project grants from the Rehabilitation Services Administration for demonstration projects in the rehabilitation of older blind persons.

Each of them has been slightly different for the purpose of demonstrating various approaches, many of them concentrating on older blind persons living in isolated or rural areas.

Of 1,188 older blind persons who were served during the fiscal year 1976, RSA reported that 388 had actually been vocationally rehabilitated by the standards for vocational rehabilitation currently in the act. Some have been rehabilitated as homemakers. Others have been rehabilitated for sheltered employment; and others in outside competitive employment, including some who are now operators of vending facilities under the Randolph-Sheppard Act.

Individuals served range in age from 55 to the low 90's. In all cases, they are assured, as a result of these 3-year projects, of referral for other needed services through the social services program under title XX of the Social Security Act, or in some areas services under the Older Americans Act of 1965. Others have been enrolled in the regular vocational rehabilitation program as a result.

During the current fiscal year, four of these 3-year projects will be phased out and two more added. The two new ones will be in Hawaii and Nevada. The one in Nevada emphasizes training individuals for employment in sheltered workshops, and in addition will establish a viable employment program for those individuals who are homebound.

As a result of this demonstration, we feel that expansion of the program is fully justified, and we would strongly recommend that the provisions of section 310 of S. 7 of the 93d Congress be included in a bill which extends and improves the Rehabilitation Act of 1973.

In addition, we would like to recommend the establishment of an independent living rehabilitation program similar to title II, Comprehensive Rehabilitation Services, of S. 7 of the 93d Congress, with assurance of mandatory referral to the program after extended evaluation of rehabilitation potential has been exhausted.

In this way, I think we can be absolutely sure that any individual who has the potential for gainful employment will be served through the regular program; and the title II program that we are proposing would have its own authorization of appropriation and would insure training to unemployable individuals to make it possible for them to live as independently as feasible and thereby delay or even foreclose the necessity of premature institutionalization.

We would also like to indicate our concern about the lack of regulations, final regulations, to implement section 504 of the Rehabilitation Act of 1973. It would appear that the bureaucratic process in HEW is very slow in getting regulations out, and we would like to recommend to the subcommittee when it considers extension of the Rehabilitation Act of 1973, that it specifically add enforcement procedures to section 504. We believe that spelling out these procedures in a statute would enhance the implementation of the provision.

We share the concern of representatives of the American Speech and Hearing Association, who testified on February 7, that Food and Drug Administration regulations have serious potential for weakening higher standards already in effect for sale of hearing aids to individuals. Without any question at all, we believe that before an individual is sold a hearing aid, he should have an examination by a physician skilled in the diseases of the ear to make sure that there is no pathological condition which is correctable by surgery or other medical processes, and that when a hearing aid is indicated as being helpful, that it will be issued on the basis of a written order by an audiologist or a physician skilled in diseases of the ear.

In conclusion, Mr. Chairman, I would like once again to restate our support for S. 725 with either an amendment or report language that would direct the Bureau for the Education of the Handicapped to pay particular attention to the special needs for training personnel needed in the education of handicapped children in the low prevalence categories, the blind, the deaf, the deaf-blind, and multihandicapped; and we do indeed hope that the subcommittee and full committee will, during this calendar year, take action to extend and improve the Rehabilitation Act of 1973.

Thank you.

Senator RANDOLPH. Thank you very much, Mr. Schloss.

Who will speak next?

Mr. ROBRAHN. I will go second and Mr. McDaniel next.

Senator RANDOLPH. I will withhold questions or general comment until the three of you have finished.

I do want, at this point, to commend Irvin for his very complete statement on the situation.

His comments are helpful. I always marvel at his ability to speak off the cuff when he presents testimony.

Mr. SCHLOSS. Thank you.

Senator RANDOLPH. He has a splendid command of memory and expression.

One person I always see in the audience in our hearings is Mr. Schloss who gives so much of his time and attention to the vital concern of the blind.

We in the subcommittee are most appreciative.

Now, we will have the second panelist.

Mr. ROBRAHN. Thank you, Mr. Chairman.

Since I am rather new to the scene here, I will just say very briefly about myself that my background is in the field of law. I practice law and served as a judge for 8 years in Topeka, Kans., before coming to the American Council of the Blind.

The American Council of the Blind is a national organization, whose members are primarily individuals who have visual impairment. The council was founded in 1961 and now has 49 affiliated membership organizations, 8 of which are special interest groups such as the American Blind Lawyers Association, Randolph-Sheppard Vendors of America, Visually Impaired Secretarial Transcribers Association, and Visually Impaired Data Processors, International.

The American Council submitted a written statement and oral testimony at the Oversight Hearing conducted by this subcommittee during the months of February, March, and April of 1976. A copy of that statement, which was made jointly with the American Coalition of Citizens with Disabilities, is attached hereto and incorporated as a part of this statement.

The American Council of the Blind has consistently and forthrightly advocated that agencies which administer and provide services to persons who are visually impaired should be a specialized or separate unit in the governmental structure. Our belief in this concept is based on experience and evaluation, and not on untried theory or selfish vested interest.

It is not my intention here to take the time of this hearing for a complete dissertation on the pros and cons of the concept. The committee has, on several occasions, received statements from many quarters on this subject.

Concisely stated the following represents the policy of the American Council with regard to the special or separate status and administrative integrity of the agencies serving the blind and visually handicapped:

There is incontrovertible justification and validity, well established by long practice and experience, that it is not only desirable but it is necessary for best results and efficiency in the expenditure of funds for programs and services for the blind to be planned and executed separately and independently from programs and services for other categories of disabled and disadvantaged persons; and reasons for the foregoing, but not limited to those stated, are as follows:

1. In terms of numbers, the blind constitute a very small minority as to the total number of disabled and disadvantaged groups; and thus, as a minor segment of a large Government department or agency, the programs serving the blind are submerged by sheer force of numbers and inevitably receive less than the fair share of departmental or agency funds.

2. Inevitably, the small minority status of programs for the blind within the department or agency results in little, if any, participation by the administrators of such programs in the overall policymaking of the department or agency.

3. The resulting limited funds and lack of status seriously jeopardizes the capacity of the programs for the blind to attract and retain qualified and specially trained staff personnel.

4. It is generally recognized that by reason of the nature and extent of problems dealt with in programs and services for the blind, the average time expended per case is substantially longer than the average for other categories of disabled and disadvantaged; and as a consequence the large multiservice department or agency tends to neglect the former and favor the latter in the interest of compiling a "good record."

5. The resulting lack of adequate funds, inferior status, shortage of personnel, and general neglect by administrators in superior positions prevents innovations, excludes chance for expansion of the programs, and there sets in a general deterioration of established programs and services.

It is therefore the policy of the American Council of the Blind that any and all programs and services for the blind established and administered by the Government must be positioned in the governmental structure, administratively and functionally, so that the administrator of such programs and services shall have a voice and participate in the budgetmaking and policymaking processes of the department or agency and that he shall have direct access to and communication with the office of the Governor or appropriate chief executive, and with the legislature.

Section 101 of the Rehabilitation Act of 1973, as amended, contains language which authorizes the separate agency for the blind and visually handicapped, and the section also contains language which, in the event that the agency for the blind and visually handicapped is not separate, shall be located at an organizational level and shall have organizational status within the department comparable to that of other major organizational units of such department.

The woeful failures of agencies charged with the administration and delivery of services to persons who are blind or visually handicapped to provide adequate services to blind persons of all ages has persisted by reason of several contributing causes.

A major contributing factor arises out of a Federal-State program which requires matching funds from the State for Federal funding; and thus the funds available for the operation of each State agency are subject to the will and generosity of the legislature of each State.

For this reason, the American Council has advocated that certain programs and services for the blind and visually handicapped must be mandated as a condition to the receipt of Federal funding and that administrative costs and case service costs of the unit providing services to the blind and visually handicapped should be 100 percent funded by the Federal Government.

In this regard, we respectfully direct the attention of the committee to the attached statement, and more specifically to the following paragraphs: 1, 2, 3, and appendix M, 4 and appendix Q, 7 and appendix O, 8 and appendix L, 9 and appendix J, 17 and appendix K, and 18.

The American Council of the Blind further urges that the administration and delivery of services to all citizens who are handicapped, as well as those who are blind and visually handicapped, can be greatly improved and facilitated through meaningful involvement and participation of handicapped individuals in the planning and policymaking functions and procedures of the Federal and State departments charged with providing services to such persons. In this regard, we respectfully direct the attention of the committee to the following paragraphs of the attached statement: 11 and appendix C and appendix N, 12 and appendix D, 13 and appendix E and appendix N, and 14 and appendix F.

While section 101 of the Rehabilitation Act of 1973, as amended, contains a number of requirements as to the contents and assurances of each State plan, it is the recommendation of the American Council that there be additional requirements providing for submissions as a part of the State plan which demonstrate actual implementation with design to establish honest accountability and evaluation of the State's total program.

It is the recommendation of the American Council that the act be amended to require an effective monitoring procedure and oversight and supervision procedures on the part of the Office for the Blind and Visually Handicapped, Rehabilitation Services Administration, in order to effectuate maximum use of Federal funds for the provision of comprehensive services to men, women, and children who are visually handicapped in each State.

Before concluding this abbreviated statement, we wish to call the attention of the committee to the fact that, as of this date, nearly 3½ years after the passage of the Rehabilitation Act of 1973, final regulations under section 504 of the act have not been published, that there has been no initiation of procedures for the issuance of regulations under section 501 of the act, and that the final regulations on the Randolph-Sheppard Amendments have not been published.

Day in and day out, millions of citizens with handicaps suffer acts of discrimination, from denial of needed services, and from the unavailability of needed services.

We urge this committee and the Congress to give prompt attention to the correction of this State of affairs which adversely affects the lives of 36 million handicapped individuals of this nation.

Thank you.

Senator RANDOLPH. Thank you very much, Mr. Robrahn.

We have had the statements of Mr. Schloss and Mr. Robrahn. We will not, in any sense, consider this an interruption, but a very real contribution. Before Mr. McDaniel, the third panelist, gives his testimony, I have asked U.S. Senator Hubert H. Humphrey to come, if he will, and sit alongside the panelists. We have not questioned them as yet, Hubert, and one member of the panel is still to testify.

You have worked with and for people all your life. It is good to have you there with those three gentlemen who are active in programs for the handicapped, particularly in realistic aid for the blind.

I need not at length indicate the appreciation of the members of our subcommittee for your presence and your expertise on important matters that concern this subcommittee.

I am delighted personally, and I am gratified officially to have Senator Humphrey, former Vice President of the United States, testify this morning.

I have always felt that he is best characterized as the man for humanity.

Will you begin now?

STATEMENT OF HON. HUBERT H. HUMPHREY, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator HUMPHREY. Thank you very much, Senator Randolph.

May I express to my friends here who are testifying on the programs that can be of assistance to the blind my thanks for their courtesy in permitting me to interrupt the flow of their testimony.

I can only add that as I listened to the previous witness, I was very much impressed with the recommendations he had to make.

I know that you, Senator Randolph, and the members of your subcommittee and the Committee on Human Resources will be very sympathetic to the needs and requirements of our fellow citizens who suffer from handicaps.

I want to address myself to a matter which is somewhat related to what you heard this morning, but covers the entire spectrum of the handicapped people in America.

I thank you for permitting me to include in your current oversight hearings a proposal with which you are familiar, and one which I have made on other occasions, for a demonstration program of wage supplement payments to handicapped individuals in sheltered workshops.

As my distinguished colleagues on this subcommittee know, this proposal would amend the Rehabilitation Act of 1973 to authorize the Secretary of the Department of Health, Education, and Welfare to conduct demonstration projects in public or nonprofit sheltered workshops and work activity centers in every region of the United States to determine the feasibility of paying wage supplements to severely handicapped individuals employed on a long-term basis.

Now, that opening paragraph tells pretty much what I have in mind. It is not the intermittent employee, but those who are in sheltered workshops on a long-term employment basis that I am contemplating in talking about demonstration pilot programs to ascertain the feasibility of a program of wage supplements.

By the way, of course, we all know, Senator Randolph, that you have been the leader here in the field of rehabilitation. I have always considered it a privilege and an honor to support and to join with you in these matters.

Mrs. Humphrey and I are deeply interested in programs of this nature. In our home State, we work very closely with our own people who suffer physical or mental disabilities or handicaps. We work for handicapped youngsters in summer programs at Camp Courage, Camp Friendship, and Camp Confidence. We spend a lot of time and energy and resources in working with these wonderful people. There is a great treasury of competence and ability that this Nation has not fully utilized.

We sometimes call people handicapped who are not handicapped at all. They may have a disability of some nature in some area, but they compensate for it somewhere else. So the scales of competence and ability are in good balance.

I think you and I know that among those whom the general public labels as disabled or handicapped are people of unusual talent, sometimes genius.

Through the years, a number of knowledgeable individuals and organizations have endorsed the concept of wage supplements to severely handicapped individuals.

In 1967, the Secretary of Labor, Mr. Wirtz, recommended consideration of wage supplements for clients in sheltered workshops. The concept has been endorsed by the President's Committee on the Employment of the Handicapped and the Council of State Administrators of Vocational Rehabilitation, the Goodwill Industries, the Association of Rehabilitation Facilities, and other organizations serving the needs of the handicapped.

However, action on this proposal was deferred to await results of a comprehensive study of sheltered workshops undertaken for the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973.

It was felt that more data was needed on the characteristics of workshop clientele, the source and amount of their income, the services they receive, and the results of work and rehabilitation programs.

The Greenleigh study provides a solid base of data and recommendations. I have drawn on that study for figures used in my testimony today. It draws a profile of the problems and achievements of workshop programs, and makes specific recommendations to improve the welfare of the handicapped in sheltered workshops.

The study supports the need to demonstrate through pilot projects the impact of wage supplements or subsidies. My bill provides for the funding and guidelines to launch such a demonstration program.

Another study of sheltered workshops by the Department of Labor will be submitted before this committee undertakes extension of the Rehabilitation Act of 1973. I do not know the results of this study. But I do know that, despite devoted and effective rehabilitation workers, despite many innovative and promising individual programs, the wage earnings of the majority of severely handicapped do not sustain even a modest livelihood. The most conscientious worker cannot escape poverty and dependence solely through his own productive labor.

The figures also show that the typical workshop client is severely disabled. Whereas the mentally retarded were substantially outside the workshop system 10 years ago, mental retardation was the primary disability of 53 percent of the clients studied by the Greenleigh report.

Only 10 percent of clients trained and/or employed in sheltered workshops enter competitive employment in any 1 year. Clearly, sheltered workshops remain a principal mode of work training and transitional and permanent employment for the severely handicapped. Yet, workshops for the mentally ill and mentally retarded offered an average of only 99 cents an hour to their long-term clients—the likely annual earnings were $1,030.

Well, that is a pathetic figure to have to mention in the United States of America.

Slightly over one-half of clients sampled relied on their families as their primary source of support, and 45 percent depended on other forms of local, State or Federal public assistance. Very, very few could sustain an independent living on their earnings alone.

When aged parents or relatives die or are unable to continue support, the sheltered workshop client faces the prospect of being assigned to tax paid institutions at a far greater public cost than if he would continue to contribute to his own support.

I mention this because the fact of the matter is that people are going to be taken care of. If the client can earn most of his care and his or her living in that sheltered workshop by wages or wage supplements, it is a much better bargain for the taxpayer, if you want to look at it from that point of view, than institutional care, or even other public assistance. It is surely much better for the individual's sense of dignity and self-reliance.

The benefits in workshops exceed costs by $1.31 for every dollar invested, so the cost-benefit ratio, if you want to look at it from that point of view, is established.

Mr. Chairman, the ability to work and contribute to self-support not only makes economic sense, it is therapeutic. Through meaningful activity, workers gain a sense of belonging and contributing to their community.

The handicapped individual in sheltered workshops is making an effort to earn his own living and to make a productive contribution to society. My bill would provide an incentive to workers to improve their performance to the best of their ability.

In a number of other industralized nations, the Greenleigh report documents a greater commitment, both philosophical and financial, to the self-realization of the handicapped.

If the United States is truly oriented toward work rather than welfare, then we owe our handicapped a comparable commitment.

The demonstration projects which I propose in this bill are long overdue. They are not costly. Yet they will provide the experimental data lacking to evaluate wage supplements as a means to raise the income of workshop clients without lessening their work incentives.

We are about to launch a major effort to address the glaring inequities and inadequacies in our present patchwork welfare structure. In providing a thorough test of the relationship between subsidies and incentives, and the costs and problems involved, the demonstration program I am proposing would shed light on the whole question of income maintenance.

Specifically, S. 506 would create the following mechanism for wage supplements.

Every handicapped worker in a sheltered workshop would be provided with a wage supplement equal to one-half of the minimum hourly wage, up to and including the point where his wage reached 50 percent of the minimum wage. For wages above that point, the wage supplement will be reduced 7 cents for each additional 10-cent increment in wages.

It may be that statistics gathered in the Department of Labor study will suggest a better formula in terms of the workers covered and the amount of subsidy. While the bill presently calls for a discontinuation of the supplement when the worker's earned wage reaches the minimum wage level, it may be preferable to continue the gradual phaseout of the supplement to its completion.

Under this alternative, wages of up to about 120 percent of the Federal minimum wage could be earned. But such earnings would still be considerably below the prevailing wage.

The critical principle is that there is no sudden cutoff point, so that there is continuous incentive for the handicapped worker to increase his productivity. This incentive may well encourage him to achieve a level of productivity where he no longer requires the support of sheltered employment.

Most doubts that have been expressed concerning this program are based on misconceptions or could be resolved in designing and administering the pilot projects.

The objective of this program is to gather reliable and representative experimental data in workshops that meet established criteria. It would provide for careful supervision and compensation of costs incurred by participating workshops and control workshops. It would not foster unfair competitive practices. It would not affect or supplant other income support programs.

It would be limited to persons in full-time employee status who would be reviewed and evaluated periodically for job placement outside the workshop. In short, it is a workable program which deserves to be tested.

Finally, Mr. Chairman, the Rehabilitation Act Amendments which authorized the study of sheltered workshops also called for a White House Conference on Handicapped Individuals. This Conference has been scheduled for May of this year.

We are indebted to you, may I say again, for your leadership.

The Conference will focus on efforts to enable handicapped individuals to live independently, with dignity, and with full participation in community life to the greatest degree possible. Implicit in these goals is the need for economic well-being.

The handicapped who make a sincere effort toward self-support must not be condemned to a hopeless and helpless dependency. The wage supplement program can be a first step to realize the goals of the White House Conference, and demonstrate our commitment to this Nation's handicapped.

Mr. Chairman, I know you are pressed for time. I know of your deep concern about these matters. I offer this testimony because I think we can study these programs to death.

I believe that what we need to do sometimes is to just take some action. The action recommended here is on a pilot basis. I think it will yield the experimental data that you need. I think it would be better than all the surveys that we can make.

I think the time has come to undertake a limited program of this nature.

I know that there are many sheltered workshops in the country that are anxious and ready to cooperate under the criteria which have been established.

Senator RANDOLPH. Thank you very much, Senator Humphrey. It is refreshing always to have you present the many ideas that you have fostered through the years. It is a welcome reminder of the innovative efforts you have made during your constructive public service.

Off the record.

[Discussion off the record.]

Senator RANDOLPH. Senator Humphrey, we will keep in contact with your legislative assistant on these matters. We will be pleased to have persons testify on the wage supplement concept.

When you were talking about the taxpayer angle of a program of this type, and whether the program was one that had not just human values, but also financial merits, I recall a statement made by your former colleague from Minnesota, Walter Mondale, now our Vice President. I believe it was in Minnesota last year, when he was discussing the graduates of the St. Paul Technical and Vocational Institute.

If my memory is correct, he indicated—and it is in our record in an earlier hearing—that the initial handicapped graduates had paid Federal income tax dollars on earnings that were $89,800 over and above the Federal funds provided to train them.

You have emphasized that point this morning.

So these programs with the incentive built in are often so very, very necessary. I will not go into other fields where I think we have to have some incentives. We need to help those who are helping us in the conservation of energy and development of alternate sources of energy. They need an incentive, they need really to be helped when the going gets rough, and the costs are large. It is all a contribution to, we hope, not so much a bigger but a better America.

That is our philosophy, I am sure, at all times.

I am sorry that Senator Stafford is not here to listen to your testimony. He hoped to be here and was here earlier. He is the ranking minority member of our subcommittee. But he is doing double duty and is now in the Public Works Committee, where I am also supposed to be. We are considering some matters in the full committee that have to do with the budget of the Environmental Protection Agency.

But we come back again and again to the fact that we must keep a constant check on what has been done. We must see whether programs are functioning, as the Congress intended they should function. If we, the Congress, have made mistakes along the way, we should not always blame the agencies. But I have generally felt that a lesser law, if properly administered, is preferable to a better law that is not properly administered.

We shall cooperate, as you will cooperate, in the planning process across the board for the programs for the handicapped. We shall continue to need your counsel, Senator. We shall, of course, welcome always your participation in a hearing such as today.

Senator HUMPHREY. I thank you.

Senator, as you know, not all of my interests, to be sure, but a good deal of it relating to a wage supplement program is because of the large infusion of the mentally retarded into the sheltered workshop program.

As I indicated, a very substantial portion of the clients in the sheltered workshop today are either mentally ill or mentally retarded. They do need a special kind of lift and help, and they are now working their way into the economy. This is one of the most gratifying experiences of recent years.

With your leadership, as you know, we started to deinstitutionalize the mentally retarded.

I have seen the effects of that in my home State. I have gone out to visit the foster homes for example, that we have. Whatever limitations they might have, they are so much better than the old warehouse type of institutionalized care.

Senator RANDOLPH. Let us take the camps, for instance, in Minnesota—is it Swan Lake, Minn., where there is so much being done for children who are deaf?

Senator HUMPHREY. Yes, of course.

Senator RANDOLPH. We hope to have such a camp in West Virginia. The challenge is so compelling, the time is short, and we must not delay unduly. We want to be buttressed by facts as we move forward in such programs as you have advocated here today.

Thanks again.

Senator HUMPHREY. Thank you, Mr. Chairman.

I thank your other witnesses for their courtesy to me.

Thank you very much.

Senator **Randolph**. All of them have been leaders in the blind programs through the years.

Senator **Humphrey**. We know they have given us wise counsel.

Senator **Randolph**. Thank you, Senator.

Now, the third of our panel is Durward McDaniel. He has often appeared here, as has Irvin.

Mr. **McDaniel**. Senator Randolph, members of the subcommittee, I have been before the subcommittee on many occasions, but today I appear in a different capacity.

Last year there was formed in this Nation a coalition of organizations of and for the blind which has a rather lengthy title of Affiliated Leadership League of and for the Blind of America.

I am its current and first national chairman. The coalition consists of 40 organizations, some of them providing services for blind people, some of them organizations of blind people. The function of this organization nationally is to try to bring the mutually arrived at concerns and needs of blind people and of service programs for blind people to the Congress and to other parts of the Federal Government.

We are strongly oriented on the side of the individual, the rights of the individual, and of quality service programs for blind and visual impaired individuals.

This is an organization you will hear more about later on. It is growing, and we expect within a few months more than a hundred organizations in it.

The things that I have to say here today, as you might well expect, are quite compatible with what Mr. Schloss and Robrahn have said. Because they have said it so well, I will give emphasis to other aspects of the subject jurisdiction of this subcommittee.

I want to talk first about the cost of direct case services for blind and visually impaired people. We all know by looking at the statistics and from the things we hear and read that we are making some progress in the rehabilitation of handicapped people.

But, Senator Randolph, we are not catching up as fast as we need to and ought to. In fact, people are becoming disabled or handicapped at a more rapid rate than we are rehabilitating them.

There are several reasons for that. Not all of them, but most of them, relate to money.

On other occasions, I and other witnesses have suggested that the only way to give equal treatment to handicapped people in all of the States is for the Federal Government to assume the obligation of providing 100 percent of the money required for direct case service to these handicapped people.

Inasmuch as I am speaking for an organization of and for the blind, my emphasis here today is primarily on that category, but I think we all are mutually concerned about the well-being and needs of other handicapped people, and particularly those most severely handicapped.

We favor a system of incentive grants by the Federal Government to encourage the placement of blind and other severely handicapped people in this country—incentives to put those people into competitive employment or into the professions.

I am in no way speaking against placement in sheltered employment or in the training of homeworkers or any of those legitimate rehabilitation services. We think that the incentive grant ought to encourage the direct service State agencies to give a priority to the placement of those people in employment.

Senator **Randolph**. Mr. McDaniel, I want to interrupt you at that juncture. I may be in error, but I have never liked the word "sheltered."

Mr. **McDaniel**. I do not either.

Senator **Randolph**. I have wondered, what can be a better word to use? This has been a concern of mine for many, many years.

I know you have given thought to it, as have other groups. Your very testimony now indicates that this is an important program, and it is not a program hidden in a corner somewhere. It is a productive program.

If you will proceed.

Mr. **McDaniel**. Thank you, Senator. I know that the general council of Workshops for the Blind has been searching for a better word. I do not know whether they have agreed upon one, but they too realize that that word has many connotations which are contrary to the positive character of the work they do.

Senator, nobody is better known in this country in connection with vending facilities for blind people than Jennings Randolph. As you know, I worked on the 1974 amendments 6 years before we achieved the legislation in 1974, as did many others. It is of very great concern to the organization I speak for here today, that the rules have not been issued. But it is of even greater concern that inadequate plans are now languishing by State licensing agencies because, No. 1, the rules have not been issued, and, No. 2, no preparation has been made for the achieving of the congressionally mandated goal of doubling the number of jobs and vending facilities on Federal and other property within 5 years.

Senator **Randolph**. Earlier today when I read this segment of your testimony, I placed some blame on my own shoulders. I thought, now what have I been doing? Why has this situation been permitted?

It is a question that many of us can ask ourselves, of course. I will ask Pat to tell me when the regulation will be published.

Mrs. **Forsythe**. The reports from the Department?

Senator **Randolph**. Actually, the Randolph-Sheppard regulations.

Mrs. **Forsythe**. They are long overdue. I do not remember the exact date.

Senator **Randolph**. You say they are long overdue?

Mrs. **Forsythe**. Yes, sir, they are.

Senator **Randolph**. If they are long overdue, we will be on the telephone this morning.

Mrs. **Forsythe**. This is what the Department has done with many of the regulations. We have been waiting for 3 years for some of them in the same rehabilitation bill. The 504 regulations, for instance, are 3 years overdue.

I do not remember the exact date the Randolph-Sheppard regulations were due, but it has been a long while.

Senator **Randolph**. What do they say?

Mrs. **Forsythe**. Just that they are not ready. I think perhaps things just sort of got bogged down during the transition period of the changing administration.

Senator RANDOLPH. Well, I am not a harping critic. I said earlier today that we are working together. But as I now see it, I cannot understand the delay.

We thank you, Mr. McDaniel, for once again addressing this subject.

We shall move, and hopefully in a constructive way, with the administration on this matter.

Mr. McDANIEL. With respect to the fact that there is a new administration, we do hope that things will be accelerated. But with respect to the cost of expanding the vending facility program—as Congress said it should be, and as you all know, it could be—those costs will be substantial, because vending facilities have gone through a great transition from the time 40 years ago when you first got this law passed. Many vending facilities are now cafeterias, and enterprises which require substantial investments.

So if rules were issued today, the State licensing agencies could not commence tomorrow without adequate planning and arrangement for appropriated funds to install those facilities and to train the blind people to run them.

So we come here today advocating a special authorization and special appropriation funds for this purpose to come from the Federal Government. If we wait upon the 50 States, one by one, we are going to get a very mixed and slow development of this very worthwhile program.

We think Federal leadership is necessary, not only from the administration side, but on the side of appropriated funds. We are hopeful that, with the new administration, the Federal administrative leadership will be there as it has not been in recent years.

The Affiliated Leadership League, representing as it does, many kinds of service agencies and people who have received or need to receive services, is greatly concerned about the development of comprehensive services for blind persons—comprehensive services for blind persons of all ages. This overlaps some with the provision of the legislation which you have introduced in other sessions to categorize and specially authorize funds for services to older blind persons. We still are not winning that battle of getting people over 40 to receive rehabilitation services, and we would not want to say just rehabilitation services, but many of the services which lead to greater self-sufficiency and the leading of a better life without regard to a vocation.

All of those things are lagging behind. We hope very seriously when the Rehabilitation Act is amended again to give support to your bill to provide greater services for older blind persons.

I suppose there is a tendency to think that money solves everything; it does not, but in terms of purchasing services, those costs do go up. It is unfortunate that those costs are going up at a more rapid rate than the amount of authorized funds, or appropriated funds for rehabilitation and other services.

We are strongly committed to the administration of programs for the blind, and through public agencies for the blind. I will not add to the emphasis given by other speakers on that, but we do support that concept.

We are concerned in another area, which is entirely Federal, and that is the Federal service. In 1973 or 1974 Congress passed section 501 providing for an interagency committee to construct and implement an affirmative action program for bringing handicapped people to the Federal service as employees.

That has not worked very well. The interagency committee, the Civil Service Commission, said Congress did not tell us we could issue rules. We do not have any authority to issue rules.

We think that this is implicit in the section. But at such time as the Rehabilitation Act is further amended, or in committee report language, we hope that your subcommittee will advise those people that you did indeed intend for them to act and to issue such rules as might be necessary, and to help bring qualified handicapped people into the Federal service.

We are strongly concerned and oriented on the side of service. We are interested in quality services.

I commend this subcommittee for its concern along the same lines, and enlist this subcommittee's help in filling in those gaps which the administration may feel exists, and to the extent necessary, to tell them what needs to be done and how to do it.

I appreciate being here. I have submitted a written statement which I would appreciate being made a part of the record.

Senator RANDOLPH. Your statement, Mr. McDaniel, will be included in full in the committee hearing at the conclusion of testimony of this panel. We want to talk with you about certain points of your testimony.

Mr. Schloss, this question is for you.

Is it necessary to have Federal legislation for the creation of a separate agency for the blind in each of our States?

Mr. SCHLOSS. As you know, Senator, the establishment of separate agencies for the blind has been a matter that has been done by State legislatures, presumably——

Senator RANDOLPH. I just wanted to clarify that situation. Do you believe the States should continue to do so?

Mr. SCHLOSS. I think it would be very difficult——

Senator RANDOLPH. To carry forward the programs through Federal legislative action?

Mr. SCHLOSS. I think it would be very difficult for States to accept that kind of mandatory action, let us say, by the Federal Government——

Senator RANDOLPH. We are speaking of the Federal.

Mr. SCHLOSS. Yes.

Senator RANDOLPH. Thank you very much.

You mentioned West Virginia, along with certain States, earlier in your testimony. How many blind and visually handicapped persons, do we have in West Virginia, approximately? Do you have figures?

Mr. SCHLOSS. I would be glad to supply that for the record. I do not have that figure in my head. I can supply it for the record.

Senator RANDOLPH. We will come back to that, and you can supply it for the record. I just wanted to have it for this record.

[The following was received for the record.]

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Hon. Jennings Randolph
Chairman
Subcommittee on the Handicapped
Committee on Human Resources
United States Senate
Washington, D. C. 20510

April 5, 1977

Dear Senator Randolph:

I am pleased to respond to the written questions for the record of the hearings on S. 725, the Education of the Handicapped Amendments of 1977, and other legislatively established programs for handicapped individuals as follows:

Question: How many blind people are there in West Virginia?

Answer: According to the most recent statistics compiled by the National Society for the Prevention of Blindness for 1975, it is estimated that there are 4,050 legally blind persons in West Virginia. The prevalence rate for West Virginia is 225.6 blind persons per 100,000 of general population. This is only slightly higher than the prevalence rate of 225.1 per 100,000 of population for the entire United States.

With regard to cases of new blindness, NSPB estimates 400 cases in West Virginia in 1975. The rate for new cases is 21.9 per 100,000 of population for West Virginia, while the national rate for new cases is 21.0 per 100,000 of population.

Question: Do you have recommendations on how the Education of the Handicapped Act can prepare handicapped children for a smooth transition to vocational rehabilitation?

Answer: If special education, related services, and appropriate educational aids are provided to each handicapped child in preschool and elementary and secondary school settings by qualified professionals to enable the child to achieve his maximum potential in subjects taught, daily living skills, and personality development, then the transition from special education to vocational rehabilitation must inevitably be a smooth one. The two programs are complementary.

With specific regard to the blind child, early and progressively more advanced training during the school years in orientation and

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mobility and daily living techniques should enable the child to function more independently; interact more normally with his sighted peers; assure development of social skills during the critical growth years, thereby building self-confidence, self-reliance, and self image, as well as allowing for maximum participation in school, family, and outside social activities; assure physical development; and minimize frustration and attendant emotional health problems.

In addition, early and progressive development of good communication skills--such as typing, braille, and the use of recording equipment essential for successful school work--will be valuable in adult life.

If quality training in all of these skills is not provided during the school years under the Education of the Handicapped Act, then it must be provided to the young blind adult as part of a vocational rehabilitation program on a much more intensive basis; and valuable time in skill development will have been lost.

For a handicapped child who is making normal progress in an education program, it would be ideal for the school vocational counselor to involve a vocational rehabilitation agency counselor in career counseling sessions with the child and his parents on a continuing basis starting early in the junior high school years. This will provide an opportunity, not only for course selection for the later grades based on career aspirations and potential, but also for identification and provision of needed special services, whether these special services are provided by the school system or the state vocational rehabilitation agency. If there is no school vocational counselor, then the school principal, special education teacher, or the child's family should take the initiative in arranging for early contact with appropriate personnel of the state vocational rehabilitation agency.

By assuring quality education and special services necessitated by the specific handicapping condition beginning with early education programs through elementary and secondary school, and by involving a state vocational rehabilitation counselor in career planning with the child, his family, and school personnel at the junior high school level, we believe that a smooth and successful transition can be made by handicapped children from services under the Education of the Handicapped Act to services under the Rehabilitation Act of 1973. In suggesting this transition pattern, we are assuming that parents or teachers have arranged for provision of health services to minimize the handicapping effects of a disability early in the child's life, using family resources, the maternal and child health or crippled children's program, medicaid, or the Education of the Handicapped Act. If remedial health care services were not provided earlier, then they could be provided under the Rehabilitation Act of 1973, which covers physical restoration procedures after family health care insurance and financial resources have been taken into account. Thus, early intervention by the state vocational rehabilitation agency could be of additional importance in correcting or ameliorating handicapping conditions.

Question: As you know, the FDA issued final regulations regarding hearing aids on February 15 [1977]. Do you feel that the final regulations will result in the lowering of state standards?

Answer: Despite specific reassurance by the Acting Commissioner of Food and Drugs on p. 9293 of the February 15, 1977, Federal Register that the "...rules and requirements for the expenditure of public funds for hearing aids are payment criteria established by the payer or purchaser and do not represent 'requirements with respect to a device' within the meaning of section 521(a) of the [Medical Devices] act. ...", we are not reassured. In point of fact, the proposed regulations on this subject issued April 21, 1976, even cited section 521(a) of the Medical Devices Act--which was not to be signed into law until a month later (P.L. 94-295, May 28, 1976)--as justification for waiver of higher state standards.

We therefore associate ourselves with the position publicly stated by the American Speech and Hearing Association on March 14, 1977, that "FDA's weak standard would preempt significantly higher state hearing aid related standards, such as those contained in medicaid, crippled children, vocational rehabilitation, special education, and dealer licensure program regulations."

We are further opposed to FDA's continued insistence on providing a waiver of medical evaluation to those persons over 18 contemplating the purchase of a hearing aid. As in our previous statements to various Congressional committees and at the Federal Trade Commission hearings, we believe that a physician--preferably one skilled in diseases of the ear--should provide the prospective purchaser with an examination to determine whether the patient's hearing loss is due to some treatable organic condition, and whether a hearing aid would indeed be beneficial. We further reiterate our opposition to FDA's belief, as reflected in the final regulations, that persons other than medical specialists would be qualified to diagnose conditions leading to hearing impairment.

According to the National Center for Health Statistics, there are over 2,500,000 Americans with combined vision and hearing impairments. For those whose vision deteriorates beyond the point of usefulness, hearing is the most vitally needed sense remaining for daily activity. It is for these handicapped persons that professional help is essential, to which the FDA regulations fail to respond.

Sincerely,

Irvin P. Schloss
Director
Governmental Relations Office

Senator RANDOLPH. We are always a little provincial about our own States. We like to have figures sometimes.

Mr. SCHLOSS. These older blind projects in West Virginia are going forward in three counties, I gather.

Senator RANDOLPH. We have other questions for you, but we will not ask them now. We will give them to you, and you may answer them for the record.

We are running into the problem of my needing to be at another place, and there is no one to relieve me here at the chairman's desk.

Mr. Robrahn, does the advocacy system that you suggested basically conform to requirements mandated under the Developmentally Disabled Assistance and Bill of Rights Act?

Mr. ROBRAHN. Yes. That is what we had in mind when we recommended that. We feel that these projects should be totally federally funded, and that there will be an absolute mandate that there will be such an advocacy system in each State, and that unless one is established, then that State will not be entitled to receive any Federal funds under the vocational rehabilitation program. It is that important.

Senator RANDOLPH. Thank you.

Mr. McDaniel, just one question for you.

You have made recommendations in your statement which we have studied, but you may have additional recommendations that you would like to mention now for improving services to older blind persons.

Mr. McDANIEL. I think it is fundamental that such services need to be enumerated, categorized, if that is the best word for it, and especially authorized.

We have found over the years that this general area of legislation would be very popular and worthwhile; unless it is specially authorized, however, we get into the competition of taking money from other kinds of service programs.

We find that the special needs are sometimes neglected under those conditions. There is a desire and need to help people who lose their sight become more self-sufficient, live independently, and do many of the things they did before they became blind. In order to have the kind of results that we all want, this need must be categorically provided for, and the funding especially authorized for that purpose.

There are some good programs going under social services which are not normally administered by special agencies for the blind. We find it is hard to get a handle on the big general agencies that run such service programs to deal with specific problems of this category.

I am sure that other categorical disability groups have the same problem. So we would like to see the authorization for these comprehensive services made specific enough that specialized agencies for the blind would have administrative jurisdiction for the performance of those programs.

Senator RANDOLPH. Could you tell us the number of people who are born blind and the number who are blinded later in life because of injury or disease?

Mr. McDANIEL. Those who are born without sight, of course, are a minor fraction of the total. Most people who lose their sight do so in middle age, or old age, so that those who are born blind might be 15 to 20 percent of the total.

Senator RANDOLPH. Thank you, Mr. McDaniel, and I thank you, Mr. Schloss, and Mr. Robrahn.

We are going to work together with you and your organizations for progress and for further amendments which will improve programs that we trust will help not only the blind, but all of the handicapped who are so important to our well rounded society.

Thank you very much.

Senator RANDOLPH. Miss Jan Jacobi, please. You are, in a sense, a substitute.

[The prepared statements of Mr. Schloss, Mr. McDaniel, and Mr. Robrahn follow:]

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AMERICAN FOUNDATION FOR THE BLIND, INC.

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STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS OFFICE, AMERICAN FOUNDATION FOR THE BLIND, TO THE SUBCOMMITTEE ON THE HANDICAPPED, COMMITTEE ON HUMAN RESOURCES, UNITED STATES SENATE, ON S. 725, THE EDUCATION OF THE HANDICAPPED AMENDMENTS OF 1977, AND ON PROPOSED IMPROVEMENTS IN REHABILITATION SERVICES FOR THE BLIND AND OTHER SEVERELY HANDICAPPED

February 28, 1977

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to appear before you to advocate extension and improvement of the discretionary grant programs under Parts C, D, E, and F of the Education of the Handicapped Act. In addition, I should like to urge action this year to improve services under the Rehabilitation Act of 1973.

Today, I am representing three national organizations in the field of services to blind and severely visually impaired individuals. These organizations are the American Association of Workers for the Blind, the national membership organization of professional workers serving blind persons; American Foundation for the Blind, the national voluntary research and consultant agency in services to blind persons of all ages; and Blinded Veterans Association, the Congressionally-chartered membership organization of the nation's warblinded.

All three of these national organizations endorse enactment of S. 725, the Education of the Handicapped Amendments of 1977, with amendments designed to assure adequate attention to the critical need for trained personnel in programs serving children with low prevalence severe handicaps, such as the blind and visually handicapped, the deaf and hearing impaired, the deaf-blind, and various other multihandicapped children.

It is estimated that there are some 66,000 visually handicapped children under 19 years of age requiring special education and related services and that 23,000 of this number are unserved. An additional 19,000 children under 19 are estimated to have serious impairments in addition to a visual handicap or to be deaf-blind. Of this number, some 12,000 children are not being served.

We believe that the increases in appropriations for special education personnel authorized by S. 725 will materially help to reduce the number of unserved visually handicapped children, particularly if grants to universities under Part D of the Education of the Handicapped Act are administratively directed by the Bureau for the Education of the Handicapped (BEH) to meet the special needs of this small target population. I understand that, at present, universities receiving grants for personnel training are permitted considerable latitude in the types of personnel trained, with the result that the number required to work with small target populations like the blind, the deaf, or the multihandicapped is not keeping up with the need. In particular, fewer leadership personnel at the doctoral level are being trained today than was the case several years ago for faculty positions in university teacher preparation programs for the visually handicapped and for research programs to improve education methods for the visually handicapped.

As the provisions of Part B of the Act for identification of unserved and underserved handicapped children are increasingly implemented we believe that this shortage situation will become more acute unless BEH is directed by statute, or at the very least by report language, to establish priorities to meet the special needs of low prevalence target populations of handicapped children.

Another critical area of need continues to be adequate preschool programs for visually handicapped children with serious additional handicapping conditions. We hope that BEH can focus on this special need using the various components of the Act--personnel training, research, and special services and projects under Part C.

Other witnesses have pointed out how contemporary technology is assisting in the production of educational aids of great significance for visually handicapped children as well as adults. There are now talking calculators available to blind persons for use in school, at work, and at home. The Optacon converts print to tactually discernible letters. Practical reading machines which convert print into synthetic speech are readily foreseeable. Funds under the Education of the Handicapped Act play a significant role in the development of these devices as well as less sophisticated but equally valuable educational aids.

With the training of appropriate personnel and the financing of innovative educational projects, the Education of the Handicapped Act can continue to play a vital role in the lives of handicapped children by preparing them for transition to vocational rehabilitation programs and productive lives as adults. By extending and improving the discretionary grant programs, S. 725 will assure their continuation as vital resources to the handicapped child, his family, and his teachers.

As these hearings are also dealing with other programs affecting handicapped persons, I should like to highlight some of the recommendations concerning the Rehabilitation Act of 1973 which I made to this Subcommittee on behalf of the same three organizations in February 1976.

One of the major gaps in services to blind persons in the United States continues to be lack of provision of adequate rehabilitation services for middle-aged or older blind persons. According to the National Society for the Prevention of Blindness, three-fourths of the legally blind population is 40 years of age and older; and three-fourths of all new blindness occurs in the same age group. The National Center for Health Statistics of the U.S. Public Health Service reports that close to one million of the estimated 1.3 million people in this country with severe visual impairment are 45 and older. Rehabilitation programs tend to concentrate on blind and visually impaired individuals of optimum employable age and serve very few middle-aged and older blind persons.

With appropriate training in mobility and other techniques of doing things without sight, middle-aged and older individuals can frequently be assisted to retain their jobs—jobs in which they have had many years of experience. Others may require vocational retraining as well and can take advantage of old skills and extensive work experience to train for a new job, given the proper vocational rehabilitation assistance. The important thing is that age should not be regarded as a barrier to vocational rehabilitation of blind and visually handicapped persons.

As you know, the distinguished chairman of this Subcommittee, Senator Jennings Randolph, recognized this and introduced legislation in the 92nd Congress authorizing a small target program of rehabilitation services for older blind persons. This target program was incorporated as Section 310 of H.R. 8395 of the 92nd Congress and of S. 7 in the 93d Congress. As a result of the vetoes of these two bills, a substantially smaller program of special projects in the rehabilitation of older blind persons was included in Section 304(b)(1) of the Rehabilitation Act of 1973. Under this provision, the Rehabilitation Services Administration (RSA) has funded three-year-projects in the rehabilitation of older blind persons in six states--Arkansas, Colorado, Oregon, Texas, Virginia, and West Virginia. This year, the projects in Arkansas, Colorado, Texas, and Virginia will be completed; and new projects are getting under way in Hawaii and Nevada.

Each of the projects was designed to demonstrate different methods of delivering rehabilitation services to older blind persons. The Arkansas project used a combination of a comprehensive rehabilitation center as well as service teams working with blind persons in rural areas. Colorado's program gave special attention to intensive services to older blind persons in selected mountainous counties in the state utilizing a rehabilitation service team and available community resources. Oregon is utilizing a self-contained travel home staffed by a rehabilitation teacher and mobility instructor in serving older blind persons living in extreme isolation. Texas provided services to older blind persons from minority groups in a selected rural setting and in a selected urban setting. Virginia's project emphasized a service delivery system aimed at enabling older blind persons to continue activities in their home communities outside of institutions. West Virginia's project is operating in selected counties and is emphasizing use of community resources in the individual's home area.

With regard to the two new projects beginning this fiscal year, Hawaii is providing rehabilitation services already available on Oahu to older blind persons in the neighboring islands. The Nevada project is designed to provide sheltered employment tailored to fit the physical limitations of the older blind persons being served. In addition, it will develop a viable employment program for homebound older blind persons.

According to RSA officials, these six original projects served 1,188 older blind persons during the fiscal year 1976, with 388 listed as vocationally rehabilitated. It is estimated that during the current fiscal year more than 1,400 older blind persons will be served, with the expectation that some 500 will be rehabilitated. It should be emphasized that guidelines for these projects issued by the Office for the Blind and Visually Handicapped at RSA require continuation in an appropriate service program where indicated after a three-year project period is concluded. These programs include regular vocational rehabilitation services as well as social services under Title XX of the Social Security Act.

We believe that the effectiveness of the demonstration projects under Section 304(b)(1) of the Rehabilitation Act of 1973 justifies expansion with specific authorizations of appropriations. Therefore, we recommend an amendment to the Rehabilitation Act of 1973 to include the provisions of Section 310 of S. 7 of the 93d Congress with authorizations of appropriations of $7.5 million for the first full year, $20 million for the second year, and $30 million for the third year.

Another recommendation in our February 1976 testimony before this Subcommittee dealt with inclusion of authority to provide independent living rehabilitation under the Rehabilitation Act of 1973. In a statement issued by the 1976 Democratic Presidential Campaign Committee, President Carter said: "We must broaden the traditional concepts of rehabilitation to include independent living as a supported rehabilitation objective."

We urge establishment of a program of Comprehensive Rehabilitation Services with a separate authorization of appropriations similar to the provisions of Title II of S. 7 of the 93d Congress. This program should be designed to assist severely handicapped individuals for whom there is no clear vocational potential after extended evaluation to achieve maximum functional independence in daily living activities. Referrals to this program should be mandatory but should be made only after extended evaluation services. We recommend authorizations of appropriations of $50 million for the first year of the program, $80 million for the second year, and $100 million for the third year.

With regard to Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified handicapped individuals in federally-assisted programs, we can only express our keen disappointment in the bureaucratic procedures which have delayed the issuance of rules and regulations by the Office for Civil Rights in the Department of

Health, Education, and Welfare. There is no reasonable excuse for this delay. We urge this Subcommittee to legislate enforcement procedures as a means of assuring implementation of Section 504.

The three organizations I am representing are especially concerned about the recent Food and Drug Administration regulations regarding the sale of hearing aids discussed by representatives of the American Speech and Hearing Association on February 7 before this Subcommittee. These regulations have the potential for lowering higher state standards in an area where the Federal Government should be taking the leadership in assuring high standards of service to persons with impaired hearing.

As you know, hearing is the most important remaining sense for blind persons. From the standpoint of orientation, mobility, and communication, any hearing loss is profoundly significant.

In a statement to the Federal Trade Commission on April 20, 1976, on behalf of the three organizations I am representing today, as well as the American Council of the Blind, the American Coalition of Citizens with Disabilities, and the Helen Keller National Center for Deaf-Blind Youths and Adults, Barbara D. McGarry of the Foundation's Governmental Relations Office staff stated:

> "For the purchase of a hearing aid, there should be two prerequisites: (1) an examination of the patient by a physician skilled in diseases of the ear; and (2) a written order for a hearing aid by an audiologist or by a physician skilled in diseases of the ear. Only in this way can the patient be assured that his hearing loss is not due to a pathological condition correctable through medical treatment, and that a hearing aid will not result in economic waste, frustration, and deteriorating health from lack of treatment."

We appreciated the Chairman's statement that Food and Drug Administration representatives will be invited to appear before this Subcommittee to discuss their hearing aid regulations. We hope that the outcome will be higher standards of professional service to persons whose hearing impairments can be helped by hearing aids.

In conclusion, Mr. Chairman, we urge enactment of S. 725, the Education of the Handicapped Amendments of 1977, with amendments or report language designed to assure BEH attention to the specific personnel needs of educational programs for children with low prevalence handicapping conditions. We also hope that the Subcommittee and the full Committee will take action this year to extend the Rehabilitation Act of 1973 with the improvements we recommended last year, some of which we have highlighted today.

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Statement of Position
Before the
Subcommittee on the Handicapped
Committee on Human Resources
(Formerly Committee on Labor and Public Welfare)
U.S. Senate

STATEMENT OF POSITION CONCERNING THE REHABILITATION ACT OF 1973, AS AMENDED

February 28, 1977

The Affiliated Leadership League of and for the Blind of America:

1. Favors 100% Federal funding of the cost of direct case services for visually impaired persons.
2. Favors 100% Federal funding of the cost of establishing new vending facilities under the Randolph-Sheppard Act on Federal and other property.
3. Favors establishment of a Comprehensive Rehabilitation Services Program.
4. Favors the establishment of a program of Rehabilitation Services for Older Blind Persons.
5. Favors a program of incentive grants which would be paid to the States on the basis of the number of severely handicapped persons who are placed in competitive employment after rehabilitation.
6. Favors an amendment to Section 112 of the Rehabilitation Act of 1973 to provide for the establishment of a client assistance program in each state, such program to be administered by independent organizations through grants from separately authorized appropriations for such purpose.

7. Favors an amendment to enlarge the Interagency Committee on Handicapped Employees under § 501 of the Rehabilitation Act of 1973 to include as members those disabled individuals representing national organizations of handicapped persons.

8. Favors an amendment giving statutory status to the Office for the Blind and Visually Handicapped, and providing that its Director will be an Assistant Commissioner of the Rehabilitation Services Administration.

9. Favors the establishment, maintenance and protection of specialized agencies for the blind as the preferred means of serving the blind and visually impaired people.

STATEMENT

The Affiliated Leadership League of and for the Blind of America was formed in 1976 and now consists of thirty-nine (39) participating organizations of and for the blind. This unique coalition operates under the following statement of purpose: The Affiliated Leadership League of and for the Blind of America is a voluntary non-profit coalition of organizations of and for the blind, both public and private, seeking to advance rights and services for all blind and visually impaired persons.

The League operates with the framework of the following principles:

a. We advocate the improvement of the social and economic conditions of blind and visually impaired persons.

b. We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights and equal justice without regard to race, sex, religion, ethnic origin, or handicap, and equal opportunity to enter fully into the general life of society with mutual acceptance and regard for difference.

c. We are committed to the concept of specialized services for the blind and visually impaired.

d. We are committed to the concept of standards and accreditation.

e. We are committed to the delivery of quality services to the blind and visually impaired.

f. We hold that blind and visually impaired persons share the responsibility for the achievement of these commitments and principles.

g. We believe that these goals can and must be achieved through democratic means and within the American political system.

h. The responsibility for achieving these principles and goals is shared by all Americans who believe in justice and equality.

i. We are committed to the promotion and implementation of these principles and goals.

100% Federal Funding of Direct Case Services

Traditionally, the need for rehabilitation services has exceeded the availability of such services. In recent years, that lag has increased alarmingly. The disparity varies from state to state depending upon the willingness and degree of state support. We suggest that Congress should not permit citizens of this country to be deprived of services because of the place of their residence.

Moreover, we will not succeed in obtaining a necessary and more costly service required to rehabilitate the most severely handicapped persons until we provide a monetary incentive to the states. One of the ways to assure more nearly adequate services to visually impaired persons is for Congress to authorize 100% Federal funding for direct case service costs now.

100% Federal Funding of Vending Facilities

In 1974 Congress set a goal of doubling the number of job opportunities for blind persons in vending facilities on Federal and other property. For more than two years, state licensing agencies have been waiting for Federal rules to implement the Randolph-Sheppard Act. Accordingly, the states have been unable to plan and have not obtained state appropriations which will be required to match Federal money necessary to achieve the goal set by Congress. We suggest that the achievement of that goal cannot come about in the next five (5) years unless Congress provides by an open authorization for 100% Federal funding of the costs of establishing new vending facilities.

Comprehensive Rehabilitation Services Program

Special assistance is needed for those severely handicapped individuals who are unable to realize any vocational potential after a sufficient period of extended evaluation. To aid those persons in achieving the greatest possible independence in their daily lives, the Affiliated Leadership League of and for the Blind of America favors the establishment of a Comprehensive Rehabilitation Services Program. This program should have separate authorization of appropriations and should include a mandatory referral process once extended evaluation has shown no hope for vocational potential.

Rehabilitation Services for Older Blind Persons

The Affiliated Leadership League of and for the Blind of America advocates the establishment of a program to assure that rehabilitation services will be made available to older blind persons. The present emphasis on serving those persons who are employable has resulted in an intolerable lack of services to middle-aged and older blind persons. Seventy-five percent (75%) of the estimated 500,000 blind persons in the United States are 40 years of age or older. It is distressing that so many have been substantially abandoned in terms of service. Some administrators may argue that it is unfair to create such a specialized category without doing the same for many others. However, no one has suggested a better solution to the probelm of administrative neglect of this important category of handicapped persons.

Blind people who have passed the age of 40 still need to earn a living for themselves and their families and to adjust to living with impaired sight. They have many useful years remaining, and can and should make valuable contributions to our society.

Incentive Grants to the States

We favor the establishment of a program which would pay incentive grants to the states on the basis of the number of blind and severely handicapped persons who are, after rehabilitation, placed in competitive employment, earning the minimum wage or better. Such a program would result in a greater emphasis upon placing these persons in better paying jobs, thus raising their standard of living and decreasing the number of such individuals receiving Supplemental Security Income.

Client Assistance

We believe that the client assistance program provided for in Section 112 of the Act has proved to be of valuable assistance to handicapped individuals and their families; however, it is our further belief that the program can be greatly strengthened and improved. We therefore propose that the section be amended so as to provide for the establishment of a client assistance program in each of the states to be administered by independent organizations through grants approved by the Secretary and that the section be further amended to expand the function of the client assistance program to provide for assistance in the presentation of claims similar to the provisions of 38 U.S.C. §§ 3401-3403.

Interagency Committee on Handicapped Employees, § 501

While some progress has been made in the implementation of Section 503 and while some Federal agencies have taken some forward steps in implementation of affirmative action in the employment of handicapped individuals under Section 501, for the most part little progress in employment of the handicapped has come about in the over two-year period since the enactment of Sections 501, 503, and 504. Much of the failure of these provisions to achieve the results Congress intended is the lack of statutory or regulatory procedures for enforcement. The Affiliated Leadership League of and for the Blind of America therefore makes the following proposal for amendment to Section 501 which we believe will greatly strengthen and improve it.

We favor an amendment under § 501 which enlarges the membership of the Interagency Committee on Handicapped Employees to include not less than five additional members who must be handicapped individuals appointed by the President from lists of nominees submitted by national organizations of the handicapped upon the invitation and request of the President. It is our belief that the participation of the consumer members on this Interagency Committee will bring about increased activity on the part of the Committee in the performance of its functions and duties as prescribed by Section 501 and will result in expanded opportunities for the employment of handicapped persons in Federal departments, agencies and instrumentalities.

Office for the Blind and Visually Handicapped

For more than 30 years there has been an Office for the Blind and Visually Handicapped at the Federal level in vocational rehabilitation. In 1971 this Office was abolished in an administrative reorganization. All of the major organizations of and for the blind protested the abolition and the Office was restored. The existence and function of the Office for the Blind and Visually Handicapped have been major factors in the development and progress of programs for the blind. All of the major organizations of and for the blind are united in the desire to secure a statutory status for this Office which will assure its continued existence and which will make possible an ever-increasing emphasis on the service needs and the specialized problems of blind persons.

Under a Reorganization Plan published on August 17, 1976, the Director of the Office for the Blind and Visually Handicapped would become an Assistant Commissioner of the Rehabilitation Services Administration. We concur in the desirability of creating the position of Assistant Commissioner and urge that such a provision be included in the statute also.

Need for Specialized Agencies for the Blind

The Affiliated Leadership League of and for the Blind supports the establishment, maintenance and protection of specialized agencies for the blind as the preferred means of serving the blind and visually impaired people. It is recognized that the specialized agency, in addition to providing services directly, shares responsibility for planning, coordinating, advocating and evaluating services for the blind throughout the community.

The needs of the blind person are the central focus of the specialized agency. The unique body of knowledge and standards that have been developed, and that are not found elsewhere, are brought to bear to assist the blind person to achieve his true potential. The acquisition and application of this body of knowledge constitutes a speciality in its own right that can flourish only in the atmosphere provided by a specialized agency.

Two essential characteristics in quality service to blind people are specially qualified personnel and earmarked financial resources. It is rare that these characteristics occur outside of a specialized agency for the blind.

From time to time, a trend has appeared that takes the form of amalgamating programs for various populations under the auspices of a single human services agency. This "umbrella" approach, it is said, provides for equitable treatment for all populations and fosters comprehensiveness of service with the greatest efficiency at the least cost.

It is our belief that the "umbrella" approach has failed to demonstrate the ability to provide quality services for blind people. These agencies tend to believe that blind people are "too severely disabled" and cost "too much" to rehabilitate. The Affiliated Leadership League of and for the Blind of America believes that this approach directly threatens the quality of service to blind and visually impaired persons.

Specialized services, on the other hand, have accrued from a tradition of more than a century of experience and have been thoroughly tested in practice.

THE AMERICAN COUNCIL OF THE BLIND

Supplementary Statement

Before the Subcommittee on the Handicapped
Committee on Human Resources
formerly, U.S. Senate Committee on Labor & Public Welfare

Proposed Amendments to the Rehabilitation Act of 1973, as amended,
and Oversight hearing, Feb. 28, 1977

Prepared by: Reese H. Robrahn, Director of Research and Governmental Affairs
American Council of the Blind

Mr. Chairperson and Members of the Subcommittee:

The American Council of the Blind is a national organization, whose members are primarily individuals who have visual impaiment. The American Council was founded in 1961, and now has 49 affiliate organizations, including nine special interest organizations such as The American Blind Lawyers Association, Randolph-Sheppard Vendors of America, Visually Impaired Secretarial Transcribers Association, and Visually Impaired Data Processors, International. The American Council submitted a written statement and oral testimony at the Oversight hearing conducted by this Subcommittee during the months of February, March and April of 1976. A copy of that statement, which was made jointly with the American Coalition of Citizens with Disabilities, is attached hereto and incorporated as a part of this statement.

The American Council of the Blind has consistently and forthrightly advocated that agencies which administer and provide services to persons who are visually impaired should be a specialized or separate unit in the governmental structure. Our belief in this concept is based on experience and evaluation, and not on untried theory or selfish vested interest. It is not my intention here to take the time of this hearing for a complete dissertation on the pros and cons of the concept. The Committee has on several occa sions received statements from many quarters on this subject. Concisely stated the following represents the policy of the American Council with regard to the special or separate status and administrative integrity of the agencies serving the blind and visually handicapped:

> There is incontrovertible justification and validity, well established by long practice and experience, that it is not only desirable but it

is necessary for best results and efficiency in the expenditure of funds for programs and services for the blind to be planned and executed separately and independently from programs and services for other categories of disabled and disadvantaged persons, and reasons for the foregoing but not limited to those stated, are as follows:

1. In terms of numbers the blind constitute a very small minority as to the total number of disabled and disadvantaged groups; and thus as a minor segment of a large government department or agency the programs serving the blind are submerged by sheer force of numbers and inevitably receive less than the fair share of departmental or agency funds.

2. Inevitably, the small minority status of programs for the blind within the department or agency results in little, if any, participation by the administrators of such programs in the over all policy making of the department or agency.

3. The resulting limited funds and lack of status seriously jeopardizes the capacity of the programs for the blind to attract and retain qualified and specially trained staff personnel.

4. It is generally recognized that by reason of the nature and extent of problems dealt with in programs and services for the blind the average time expended per case is substantially longer than the average for other categories of disabled and disadvantaged; and as a consequence the large multi-service department or agency tends to neglect the former and favor the latter in the interest of compiling a "good record."

5. The resulting lack of adequate funds, inferior status, shortage of personnel and general neglect by administrators in superior positions prevents innovations, excludes chance for expansion of the programs, and there sets in a general deterioration of established programs and services.

It is therefore the policy of the American Council of the Blind that any and all programs and services for the blind established and administered by the government must be positioned in the governmental structure, administratively and functionally, so that the administrator of such programs and services shall have a voice and participate in the budget making and policy making processes of the department or agency and that he shall have direct access to and communication with the office of the governor or appropriate chief executive, and with the legislature.

Section 101 of the Rehabilitation Act of 1973, as amended, contains language which authorizes the separate agency for the blind and visually handicapped, and the section also contains language which, in the event that the agency for the blind and visually handicapped is not separate, requires that the unit for the blind and visually handicapped shall be located at an organizational level and shall have organizational status within the department comparable to that of other major organizational units of such department. The woeful failure of agencies charged with the administration and delivery of services to persons who are blind or visually handicapped to provide adequate services to blind persons of all ages has persisted by reason of several contributing causes.

A major contributing factor arises out of a Federal-State program which requires matching funds from the State for Federal funding; and thus the funds available for the operation of each State agency are subject to the will and generosity of the legislature of each State. For this reason the American Council has advocated that certain programs and services for the blind and visually handicapped must be mandated as a condition to the receipt of Federal funding and that administrative costs and case service costs of the unit providing services to the blind and visually handicapped should be 100 percent funded by the Federal Government. In this regard we respectfully direct the attention of the committee to the attached statement, and more specifically to the following paragraphs: 1, 2, 3 and Appendix M, 4 and Appendix Q, 7 and Appendix O, 8 and Appendix L, 9 and Appendix J, 17 and Appendix K, and 18.

The American Council of the Blind further urges that the administration and delivery of services to all citizens who are handicapped, as well as those who are blind and visually handicapped, can be greatly improved and facilitated through meaningful involvement and participation of handicapped individuals in the planning and policy making functions and procedures of the Federal and State departments charged with providing services to such persons. In this regard we respectfully direct the attention of the committee to the following paragraphs of the attached statement: 11 and Appendix C and Appendix N, 12 and Appendix D, 13 and Appendix E and Appendix N, and 14 and Appendix F.

While Section 101 of the Rehabilitation Act of 1973, as amended, contains a number of requirements as to the contents and assurances of each State plan, it is the recommendation of the American Council that there be additional requirements providing for submissions as a part of the State plan which demonstrate actual implementation with design to establish honest accountability and evaluation of the State's total program.

It is the recommendation of the American Council that the Act be amended to require an effective monitoring procedure and oversight and supervision procedures on the part of the Office for the Blind and Visually Handicapped, Rehabilitation Services Administration, in order to effectuate maximum use of Federal funds for the provision of comprehensive services to men, women, and children who are visually handicapped, in each State.

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Before concluding this abbreviated statement we wish to call the attention of the committee to the fact that, as of this date, nearly three and one half years after the passage of the Rehabilitation Act of 1973, final regulations under Section 504 of the Act have not been published, that there has been no initiation of procedures for the issuance of regulations under Section 501 of the Act, and that the final regulations on the Randolph-Sheppard Amendments have not been published. Day in and day out millions of citizens with handicaps suffer acts of discrimination. from denial of needed services, and from the unavailability of needed services. We urge this committee and the Congress to give prompt attention to the correction of this state of affairs which adversely affects the lives of 36 million handicapped individuals of this Nation.

THE AMERICAN COALITION OF CITIZENS WITH DISABILITIES

and

THE AMERICAN COUNCIL OF THE BLIND

Amended and Supplementary
Joint Statement
Before the
Subcommittee on the Handicapped
Committee on Labor and Public Welfare
U.S. Senate

PROPOSED AMENDMENTS TO THE REHABILITATION ACT OF 1973
February 26, 1976
and
April 8, 1976

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The American Council of the Blind and the American Coalition of Citizens with Disabilities:

1. Favor 100% Federal funding of the cost of administration and direct case service for blind and severely handicapped persons.

2. Favor an amendment to control the priority of matching of third-party funds as well as to impose certain restrictions and limitations upon the use of funds for third-party contracts.

3. Favor establishment of a Comprehensive Rehabilitation Services Program. See Appendix M.

4. Favor amending the Rehabilitation Act of 1973, as amended, to assure certain rights and benefits to employees of workshops. See Appendix Q.

5. Oppose enactment of S. 2019, dealing with wage supplements.

6. Favor an amendment to the Rehabilitation Act of 1973, as amended, to strengthen the position of vocational rehabilitation agencies within State governments. See Appendix A.

7. Favor the establishment of a program of Rehabilitation Services for Older Blind Persons. See Appendix O.

8. Favor a program of incentive grants which would be paid to the States on the basis of the number of severely handicapped persons who are placed in competitive employment after rehabilitation. See Appendix L.

9. Favor an amendment to Section 112 of the Rehabilitation Act of 1973 to provide for the establishment of a client assistance program in each state, such program to be administered by private organizations through grants from separately authorized appropriations for such purpose. See Appendix J.

10. Favor amendments which would require agencies providing rehabilitation services and receiving Federal funds to rely upon standards established by nationally recognized accreditation bodies in the maintenance of personnel, facilities and personnel utilization standards and in all appropriate areas in the provision of vocational rehabilitation services. See Appendix B.

11. Favor establishment of a State Planning Council in each State. See Appendix C and Appendix N.

12. Favor establishment of a National Advisory Council on Services and Facilities for Handicapped Individuals. See Appendix D.

13. Favor establishment of a State advocacy system for handicapped individuals. See Appendix E and Appendix N.

14. Favor an amendment to enlarge the Interagency Committee on Handicapped Employees under § 501 of the Rehabilitation Act of 1973 to include as members those disabled individuals representing national organizations of handicapped persons. See Appendix F.

15. Favor establishment of arbitration procedures under Sections 501, 503 and 504 of the Rehabilitation Act of 1973 and strengthening of the provisions of Section 504 to require the promulgation of regulations within a prescribed time and authorizing the withholding or cancellation of financial assistance or grants for non-compliance.

16. Favor proposed amendments to Section 502 concerning architectural and transportation barriers, to strengthen the Compliance Board by reconstituting its membership and by giving it a free-standing status in the Executive Branch of Government. See Appendix P. Favor repealing certain provisions of the Architectural Barriers Act of 1968 (Public Law 90-480), and amendments thereto, so as to provide for standard-setting authority in the Architectural and Transportation Compliance Board, and mandatory compliance.

17. Favor amendment of the Comprehensive Employment and Training Act of 1973 to strengthen and improve training and employment opportunities for the handicapped. See Appendix K.

18. Favor an amendment giving statutory status to the Office for the Blind and Visually Handicapped, under the Assistant Secretary for the Office of Human Development, Department of Health, Education and Welfare.

19. Favor creation of an Office for Deafness and Communicative Disorders, with status like that proposed for the Office for the Blind and Visually Handicapped.

STATEMENT

100% Federal Funding

In most of the States there have never been enough specially trained and skilled professional staff to deal with the rehabilitation and related service needs of blind and severely handicapped persons. This deficiency arises in part from an unwillingness of the States to finance adequate special staffing and in some instances from an ill-advised opposition to such specialization on the part of State administrators of rehabilitation programs.

Solutions to such deficiencies at the State level cannot be achieved on a state-by-state basis. The solution must be provided by Congress through the provision of 100% Federal funding of administrative costs and by the requirement of specially trained and skilled staff to deal with the problems of blind and severely handicapped persons.

As a necessary counterpart to 100% Federal funding of administrative costs, we advocate that Congress take the next logical step to assure adequate funds for direct rehabilitation services for blind and severely handicapped persons through the provision of 100% Federal funding of the costs of direct case service.

Third-Party Contracts

State rehabilitation agencies have developed projects with other agencies for the performance of service. Under these "third-party" arrangements the State's matching share is normally provided by the third party agency. Without attempting to judge the merits of all services performed through third-party agreements, we want to call to the attention of Congress some of the practical effects of such arrangements, particularly in those states which have more than enough state resources to match all of the available federal funds for rehabilitation services. When federal dollars are matched with third-party private funds, a substantial fraction of the money necessarily goes to pay for overhead and administration of the third-party, rather than for services to handicapped persons. On the other hand when federal dollars are matched with funds of the State rehabilitation agency, there are no additional administrative costs, and the net result is more money for direct services to handicapped individuals.

P.L. 93-112 should be amended to deal with this serious situation in order to assure the maximum utilization of federal funds for services for handicapped persons. We believe that Congress would be concerned if all aspects of the widespread third-party arrangements were fully understood. We suggest that in addition to such proposed amendment, the General Accounting Office should be expressly authorized and instructed to make studies and report to the Congress on the utilization of federal funds in third-party arrangements.

Perhaps the most frequent complaint of users of rehabilitation services is that they are advised while their case is still open and pending that the agency has run out of funds for the fiscal year and that therefore requested and appropriate services cannot be provided. It is the observation and experience of the American Council of the Blind that in most instances the agency has run out of funds because it has committed an inordinately large percentage of available federal funds to third-party contracts on an annual basis. The Council therefore urges that P.L. 93-112 be amended so that appropriate restrictions and limitations are imposed upon the use of funds for third-party contracts in lieu of payment for direct service needs.

Comprehensive Rehabilitation Services Program

Special assistance is needed for those severely handicapped individuals who are unable to realize any vocational potential after a sufficient period of extended evaluation. To aid those persons in achieving the greatest possible independence in their daily lives, the American Coalition of

Citizens with Disabilities and the American Council of the Blind favor the establishment of a Comprehensive Rehabilitation Services Program. This program should have separate authorization of appropriations and should include a mandatory referral process once extended evaluation has shown no hope for vocational potential. See Appendix M.

Rights and Benefits for Employees of Workshops

Public Law 93-112 should also be amended to provide for a systematic review of cases of sheltered workshop employees with the view of placing as many of them as possible in the competitive labor market. It should provide for the assurance of rights and benefits to employees of workshops and rehabilitation facilities, such as unemployment compensation, workmen's compensation, social security, the Fair Labor Standards Act, occupational health and safety standards and retirement and pension plans. Provisions affording handicapped persons the right to a hearing, arbitration and judicial review with the right to be represented at any stage of such proceedings are also needed. See Appendix Q.

S. 2019, Wage Supplements

The American Coalition of Citizens with Disabilities and the American Council of the Blind oppose enactment of S. 2019 which would provide wage supplements to employees of workshops and work activity centers. We concur fully in the remarks made on this point by Irvin P. Schloss, Director of the Governmental Relations Office of the American Foundation for the Blind in his statement to this Committee dated February 20, 1976 (page 11). We also would be willing to work with sponsors of this bill and others in order to accomplish the objectives of S. 2019 in a more equitable manner.

Strengthening of State Vocational Rehabilitation Agencies

Recent examples of reorganization in State governments have resulted in a weakened structure for the agency serving the rehabilitation needs of the handicapped. This results in a lowering of the quality of vocational rehabilitation services and thus works to impede the purposes of the Rehabilitation Act of 1973. We favor a strengthening of the State agencies in order to assure quality services to the blind and severely handicapped.

Specifically, the American Coalition of Citizens with Disabilities and the American Council of the Blind urge the adoption of an amendment which would prevent and prohibit the proliferation of funds and the expenditure of the same for services to populations other than the target population for which such funds were appropriated. See Appendix A.

Rehabilitation Services for Older Blind Persons

The American Coalition of Citizens with Disabilities and the American Council of the Blind advocate the establishment of a program to assure that rehabilitation services will be made available to older blind persons. The present emphasis on serving those persons who are employable has resulted in an intolerable lack of services to middle-aged and older blind persons. Seventy-five (75%) Percent of the estimated 500,000 blind persons in the United States are 40 years of age or older. It is distressing that so many have been substantially abandoned in terms of service. Some administrators may argue that it is unfair to create such a specialized category without doing the same for many others. However, no one has suggested a better solution to the problem of administrative neglect of this important category of handicapped persons.

Blind people who have passed the age of 40 still need to earn a living for themselves and their families and to adjust to living with impaired sight. They have many useful years remaining, and can and should make valuable contributions to our society. See Appendix O.

Incentive Grants to the States

We favor the establishment of a program which would pay incentive grants to the States on the basis of the number of blind and severely handicapped persons who are, after rehabilitation, placed in competitive employment, earning the minimum wage or better. Such a program would result in a greater emphasis upon placing these persons in better paying jobs, thus raising their standard of living and decreasing the number of such individuals receiving Supplemental Security Income. See Appendix L.

Client Assistance

We believe that the Client Assistance Program provided for in Section 112 of the Act has proved to be of valuable assistance to handicapped individuals and their families, however, it is our further belief that the program can be greatly strengthened and improved. We therefore propose that the section be amended so as to provide for the establishment of a client assistance program in each of the states to be administered by private organizations through grants approved by the Secretary and that the section be further amended to expand the function of the Client Assistance Program to provide for assistance in the presentation of claims similar to the provisions of 38 U.S.C. §§3401-3404. See Appendix J.

Reliance Upon Standards Issued by National Accreditation Bodies

There are many agencies and organizations throughout the nation which provide rehabilitation services and which now receive or in the future may qualify to receive Federal funds. With the increase in our total population and a proportionate increase in the numbers of handicapped individuals, and with increased emphasis and priority on the serving of severely handicapped individuals who for the most part in the past have not been served, there will be a necessary increase in the number of such organizations and agencies providing rehabilitation services. In recent years there has been some voluntary reliance by some agencies providing rehabilitation services upon accrediting bodies to insure that these services provided met minimum standards. Accreditation has been found to be a valuable tool to foster the upgrading of services and facilities by other social service institutions such as schools and hospitals. We therefore propose the appended amendments which require reliance by agencies providing rehabilitation services and receiving Federal funding upon standards established by nationally recognized accreditation bodies for personnel, facilities and personnel utilization and in all appropriate areas in the provision of vocational rehabilitation services. See Appendix B .

State Planning Councils, National Advisory Council on Services and Facilities for Handicapped Individuals, and State Advocacy Systems

It is our belief that the complexities and sheer "bigness" of our present-day society and its government require meaningful participation and involvement of citizens in the governmental processes in order that the government may achieve an acceptable high level of responsiveness and relevancy to the needs of its citizenry. It is for this reason that we propose amendments to the Act which provide for such meaningful participation by handicapped individuals as follows:

1) a State Planning Council in each of the States, a majority of the membership of which shall be handicapped persons, with functions and powers to assist in the preparation, review and approval of the State rehabilitation plan. See Appendix C and Appendix N.

2) a National Advisory Council on Services and Facilities for Handicapped Individuals, a majority of the members of which would be handicapped persons who are representatives of national organizations of handicapped individuals; and which would advise and consult with the Secretary on all programs administered by him under the Act including review and approval of grant applications, and providing for an annual report made directly by the Council to the Congress (see Appendix D); and

3) an advocacy system for handicapped persons in each of the States mandated as a condition to the receipt of Federal funds under the Act, which system must be separate and independent from any State department, agency or organization providing rehabilitation services to handicapped individuals. See Appendix E and Appendix N.

Amendments to §501, Employment of Handicapped Individuals, §503, Employment Under Federal Contracts, and §504, Nondiscrimination Under Federal Grants

While some progress has been made in the implementation of Section 503 and while some Federal agencies have taken some forward steps in implementation of affirmative action in the employment of handicapped individuals under Section 501, for the most part little progress in employment of the handicapped has come about in the over two-year period since the enactment of Sections 501, 503 and 504. Much of the failure of these provisions to achieve the results Congress intended is the lack of statutory or regulatory procedures for enforcement. The American Coalition of Citizens with Disabilities and the American Council of the Blind therefore make the following proposals for amendments to these sections which we believe will greatly strengthen and improve them.

1) An amendment under §501 which enlarges the membership of the Interagency Committee on Handicapped Employees to include not less than five additional members who must be handicapped individuals appointed by the President from lists of nominees submitted by national organizations of the handicapped upon the invitation and request of the President. It is our belief that the participation of the consumer members on this Interagency Committee will bring about increased activity on the part of the Committee in the performance of its functions and duties as prescribed by Section 501 and will result in expanded opportunities for the employment of handicapped persons in Federal departments, agencies and instrumentalities. See Appendix F.

2) In addition, we propose amendments to §§501, 503 and 504 which would create in each instance an arbitration system similar to that provided under the Randolph-Sheppard Act Amendments, Title II, P.L.93-516. In the case of complaints filed under §503 of the Act, the proposed arbitration procedure would be an optional alternative to the procedures already provided for in said section. The proposed arbitration procedures prescribe a timetable which requires that the decision of the arbitration panel must be made not later than ninety (90) days after the filing of any complaint. We believe that these proposals for arbitration represent the most efficient and speedy means by which handicapped persons may obtain redress and enforcement of their rights created under §§501, 503 and 504.

3) We also favor an amendment to §504 strengthening its provisions by requiring the promulgation of regulations within a prescribed time and authorizing the withholding or cancellation of financial assistance or grants for noncompliance. See Appendices G, H and I, respectively.

Architectural and Transportation Barriers Compliance Board

The American Coalition of Citizens with Disabilities and the American Council of the Blind favor an amendment to §502 of the Act, Architectural and Transportation Barriers Compliance Board, which would transfer this Board from status within the Office of Human Development, DHEW, to status as an independent Executive agency to be administered through the Office of the Domestic Counsel. It is our conviction that the present location of the Compliance Board in HEW has greatly impeded its effectiveness. We believe that the stature of the Board will be greatly enhanced as an independent agency directly responsible to the President. In addition, we further propose an amendment which would abolish the presently constituted Consumer Advisory Panel and a further amendment to re-constitute the Compliance Board by requiring that one-third of the members shall be handicapped persons who are representatives of national organizations of the handicapped; that one-third of the members shall be representatives of non-governmental agencies or organizations which provide services to handicapped individuals; and that the remaining one-third shall be selected from the heads of Federal departments, agencies and instrumentalities. We additionally favor repealing certain provisions of the Architectural Barriers Act of 1968 (Public Law 90-480), and amendments thereto, so as to provide for standard-setting authority in the Architectural and Transportation Barriers Compliance Board, and mandatory compliance. See Appendix P.

Office for the Blind and Visually Handicapped, Office of Deafness and Communicative Disorders

For more than 30 years there has been an Office for the Blind and Visually Handicapped at the Federal level in vocational rehabilitation. In 1971 this Office was abolished in an administrative reorganization. All of the major organizations of and for the blind protested the abolition and the office was restored. The existence and function of the Office for the Blind and Visually Handicapped have been major factors in the development and progress of programs for the blind. All of the major organizations of and for the blind are united in the desire to secure a statutory status for this Office which will assure its continued existence and which will make possible an ever-increasing emphasis on the service needs and the specialized problems of blind persons.

For the same reasons and upon the same conditions, we request support of Congress in creating and giving statutory status to the Office of Deafness and Communicative Disorders. We need the support of Congress in securing statutory recognition for these two offices under the Assistant Secretary for the Office of Human Development, Department of Health, Education and Welfare.

The American Coalition of Citizens with Disabilities and the American Council of the Blind hereby express gratitude for this opportunity to file with the Subcommittee this amended and supplementary testimony on the Rehabilitation Act of 1973 and its 1974 amendments.

APPENDIX A

STATE PLANS

Section 101 (a) of the Act is amended by inserting in paragraph (1)(A)(ii) immediately after "another agency of the State" and immediately before "or with a local agency" the phrase:

"(but only for such programs designed to serve essentially the same target population as addressed by this Act)"

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APPENDIX B

STATE PLANS

Section 101 (7) (A) of the Act is amended by inserting at the end thereof the following: "through reliance upon accreditation by a nationally recognized accrediting body, and"

Section 101 (7) (B) is amended by inserting after the first comma and before the word "but" the following words and a comma at the end thereof:

"through reliance upon accreditation by a nationally recognized accrediting body,"

Section 101 (8) is amended by inserting after the second comma and before the word "for" the following words and a comma at the end thereof:

"through reliance upon accreditation by a nationally recognized accrediting body,"

APPENDIX C

Part A of Title I of the Act is amended by adding the following new section as follows:

(1)Sec. 105.(a) Each State which receives assistance under this Title shall establish a State Planning Council which will serve as an advocate for persons who are handicapped. The members of a State's State Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to handicapped individuals. A majority of the membership of such a Council shall consist of handicapped individuals who are representatives of organizations of handicapped individuals.

(b) The State Planning Council shall--

"(1) supervise the development of and approve the State plan required by this Title;

(2) monitor and evaluate the implementation of such State plan, and

(3) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

(c) Each State receiving assistance under this Title shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b).

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APPENDIX D

Part A of Title I of the Act is amended by adding the following new section as follows:

(1) Sec. 106.(a)(1) There is established a National Advisory Council on Services and Facilities for Handicapped Individuals (hereinafter in this section referred to as the 'Council') which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are Commissioner of the Office of Education; Commissioner of the Rehabilitation Services Administration; the Administrator of the Social and Rehabilitation Service; the Commissioner of the Social Security Administration; the Assistant Secretary of Health, HEW; the Secretary of the Department of Labor; the Secretary of the Department of Housing and Urban Development; the Secretary of the Department of Transportation; and the Director of the National Institute of Neurological Disease and Stroke.

The appointed members of the Council shall be selected from persons without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to handicapped individuals, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. A majority of the appointed members shall be handicapped individuals who are representatives of organizations of handicapped individuals.

(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

(b) It shall be the duty and function of the Council to --

(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this title;

(2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established;

(3) monitor the development and execution of this title and report directly to the Secretary any delay in the rapid execution of this title;

(4) review grants made under this title and advise the Secretary with respect thereto;

(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this title, and

(6) consult with the National Science Foundation and the National Academy of Sciences to develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in Section 202(b)(2).

APPENDIX E

Part A of Title I of the Act is amended by adding the following new section as follows:

(1) Sec. 107(a). The Secretary shall require as a condition to a State receiving an allotment under Part B for a fiscal year ending before October 1, 19___, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of handicapped individuals as well as any individual who has been determined to be ineligible for treatment, services or rehabilitation under this Act, for the purpose of challenging such determination; and

(2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services or rehabilitation within the State; (B) have the authority to represent any handicapped individual who believes that his rights have been violated under any provision of this Act and its amendments, or Acts amendatory thereto; and (C) be independent of any State agency which provides treatment, services or rehabilitation to handicapped individuals. The Secretary may not make an allotment under Part B to a State for a fiscal year beginning after September 30, 19__, unless the State has in affact a system described in the preceding sentence.

(b)(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with sections ______.

(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal years 1977, 1978 and 1979.

APPENDIX F

Section 501(a) is hereby amended as follows:

(a) By striking the period at the end of the first sentence thereof and by inserting in lieu thereof a comma, and by adding the following words and with a period at the end thereof: "and not less than five additional members who shall be disabled individuals and who shall be selected from nominees proposed by nationally recognized national organizations of handicapped or disabled persons on the invitation and request of the President."

APPENDIX G

Section 501(b)(1). Section 501 is further amended by adding at the end thereof the following subsections and paragraphs:

(b)(2) Section 501(f)(1). If any handicapped person as defined by section , paragraph believes that he has been discriminated against solely by reason of his disability in his hiring, placement, or advancement by any Federal department, agency or instrumentality of the United States, or in his examination, rating, or classification by the United States Civil Service Commission, he may file a complaint with the Chairman of the Civil Service Commission and request a hearing by an Arbitration Panel as provided for hereinafter.

(b)(3) Section 501(f)(2). Upon receipt of a complaint filed under section F of this part, the Chairman of the Civil Service Commission shall convene an ad hoc Arbitration Panel as provided hereinafter. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency or departmental action.

(b)(4) Section 501(f)(3). The Arbitration Panel convened by the Chairman of the Civil Service Commission to hear grievances of such handicapped individuals shall be composed of three members appointed as follows:

(A) one individual designated by the accused department, agency or instrumentality of the United States;

(B) one individual designated by the aggrieved handicapped individual;

(C) one individual, not employed by the accused department, agency or instrumentality of the United States, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (f)(A) and (B);

(D) if any party fails to designate a member under subparagraphs (A), (B) and (C), the Chairman of the Civil Service Commission shall designate such member on behalf of such party;

(E) the complainant handicapped individual, at the time of the filing of his complaint with the Chairman of the Civil Service Commission, as provided in this part, shall designate one individual to serve on the Arbitration Panel;

(F) within 15 days after the filing of such complaint, the accused Federal department, agency or instrumentality of the United States shall designate one individual to serve on the Arbitration Panel;

(G) within 30 days after the filing of such complaint, one individual shall be jointly designated by the two members appointed under subparagraphs (E) and (F);

(H) if any party fails to designate a member of such Arbitration Panel, the Chairman of the Civil Service Commission, within 10 days, shall make such designation as provided in paragraphs (E), (F) and (G);

(I) upon the convening of such Arbitration Panel, reasonable notice of hearing shall be given to the parties, and evidenciary hearing shall be conducted by such Arbitration Panel, and decision of such Arbitration Panel shall be rendered within 10 days after the conclusion of such hearing;

(J) in no event shall a decision of such Arbitration Panel be rendered more than 90 days after the filing of a complaint.

(b)(5) Section 501(f)(4). If the Arbitration Panel so appointed and constituted and after hearing finds that the acts or practices complained of are discriminatory or are in violation of any applicable laws of the United States, or regulations issued thereunder, the head of such accused department, agency or instrumentality of the United States shall cause such acts or practices to be terminated forthwith and shall take such other action as may be necessary to carry out and enforce the decision of such Arbitration Panel.

(b)(6) Section 501(f)(5). The decisions of a panel convened by the Chairman of the Civil Service Commission pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(b)(7) Section 501(f)(6). The Chairman of the Civil Service Commission shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(b)(8) It is further provided that the foregoing shall nor be construed in any way to divest, limit or bar any right or rights of any handicapped individual to any other remedy of cause of action under the law.

APPENDIX H

Section 503(a) is hereby amended as follows:

(a) By striking the period at the end of the first sentence thereof, and by inserting a semicolon in lieu thereof, and by inserting the following words with a period at the end thereof: "and before entering into such contract, the head of any Federal department or agency of the United States, after investigation, shall be satisfied that the contractor does in fact and in practice take affirmative action to employ and advance in employment qualified handicapped individuals."

(b) Section 503 is further amended by adding at the end thereof the following subsections and paragraphs:

(1) Section 503(d)(1). If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual, in lieu of the provisions of subparagraph (b) of this part, may, at his option,elect to file a complaint with the Secretary of the Department of Labor, and request a hearing by an Arbitration Panel as provided for hereinafter.

(2) Section 503(d)(2). Upon receipt of a complaint filed under section (d) of this part, the Secretary of the Department of Labor shall convene an ad hoc Arbitration Panel as provided hereinafter. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency or departmental action.

(3) Section 503(d)(3). The Arbitration Panel convened by the Secretary of the Department of Labor to hear grievances of such handicapped individuals shall be composed of three members appointed as follows:

(A) one individual designated by the contractor accused;

(B) one individual designated by the aggrieved handicapped individual;

(C) one individual, not employed by the accused contractor or the Federal department or agency procuring such contract, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B). If any party fails to designate a member under subparagraphs (d)(3)(A), (B) or (C), the Secretary of the Department of Labor shall designate such member on behalf of such party;

(D) the complainant handicapped individual, at the time of the filing of his complaint with the Secretary of the Department of Labor, as provided in this part, shall designate one individual to serve on the Arbitration Panel;

(E) within 15 days after the filing of such complaint, the accused contractor shall designate one individual to serve on the Arbitration Panel;

(F) within 30 days after the filing of such complaint, one individual shall be jointly designated by the two members appointed under subparagraphs (D) and (E);

(G) if any party fails to designate a member of such Arbitration Panel, the Secretary of the Department of Labor, within 10 days, shall make such designation as provided in paragraphs (D), (E) and (F);

(H) upon the convening of such Arbitration Panel, reasonable notice of hearing shall be given to the parties, and evidenciary hearing shall be conducted by such Arbitration Panel, and decision of such Arbitration Panel shall be rendered within 10 days after the conclusion of such hearing;

(I) in no event shall a decision of such Arbitration Panel be rendered more than 90 days after the filing of a complaint.

(4) Section 503(d)(4). If the Arbitration Panel so appointed and constituted and after hearing finds that the acts or practices complained of are in violation of the terms of such contract or the laws and regulations applicable thereto, the head of any department, agency, or instrumentality of the United States procuring such contract shall cause such acts or practices to be terminated forthwith and shall take such other action as may be necessary to carry out and enforce the decision of such Arbitration Panel.

(5) Section 503(d)(5). The decisions of a panel convened by the Secretary of the Department of Labor pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(6) Section 503(d)(6). The Secretary of the Department of Labor shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(7) It is further provided that the foregoing shall not be construed in any way to divest, limit or bar any right or rights of any handicapped individual to any other remedy or cause of action under the law.

APPENDIX I

Section 504 is hereby amended as follows:

(a) Immediately after the word "GRANTS" in the title of said section insert a subsection designation (a).

(b) And further amend Section 504 by adding a new section (b) as follows:

Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan or contract other than a contract of insurance or guaranty, is authorized and directed not later than 180 days after the effective date of this part, to effectuate the provisions of 504A with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule. regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such non-compliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved, a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Any department or agency action taken pursuant to section 504A shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to 504A, any person aggrieved (including any State or political subdivision thereof, and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

(c) And further amend said section by adding the following subsections and paragraphs:

(1)(a) If any handicapped individual, solely by reason of his handicap, believes that he has been excluded from the participation in, has been denied benefits of, or has been subjected to discrimination under any program or activity receiving Federal financial assistance, such handicapped individual may file a complaint setting forth his grievances with the Secretary, and request a hearing by an Arbitration Panel as provided for hereinafter.

(b) Upon receipt of a complaint filed under subsections (a) and (b) of this part, the Secretary shall convene an ad hoc Arbitration Panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency or departmental action.

(c) The Arbitration Panel convened by the Secretary to hear grievances of such handicapped individuals shall be composed of three members appointed as follows:

(1) one individual designated by the person or entity accused;

(2) one individual designated by the aggrieved handicapped individual;

(3) one individudial, not employed by the accused person or entity, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (1) and (2);

(4) If any party fails to designate a member under paragraphs (c)(1), (2), or (3), the Secretary shall designate such member on behalf of such party;

(5) the complaintant handicapped individual, at the time of the filing of his complaint with the Secretary as provided in this part, shall designate

one individual to serve on the Arbitration Panel;

(6) within 15 days after the filing of such complaint, the accused person or entity shall designate one individual to serve on the Arbitration anel;

(7) within 30 days after the filing of such complaint, one individual shall be jointly designated by the two members appointed under subparagraphs (5) and (6);

(8) if any party fails to designate a member of such Arbitration Panel, the Secretary, within 10 days, shall make such designation as provided in paragraphs (5), (6) and (7).

(d) Upon the convening of such Arbitration Panel, reasonable notice of hearing shall be given to the parties, and evidenciary hearing shall be conducted by such Arbitration Panel, and decision of such Arbitration Panel shall be rendered within 10 days after the conclusion of such hearing.

(e) In no event shall a decision of such Arbitration Panel be rendered more than 90 days after the filing of a complaint.

(f)(1) If the Arbitration Panel so appointed and constituted and after hearing finds that the acts or practices complained of are in violation of section 504 (a) of this Act, the head of any department, agency, or instrumentality of the United States providing financial assistance for any program or activity shall cause such acts or practices to be terminated forthwith and shall take such other action as may be necessary to carry out and enforce the decision of such Arbitration Panel.

(2) The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(3) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(g) It is further provided that the foregoing shall not be construed in any way to divest, limit or bar any right or rights of any handicapped individual to any other remedy or cause of action under the law.

APPENDIX J

Section 112 of the Act is amended to read as follows:

"(a) To provide counselors to inform and advise all clients and client applicants of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with and rights under projects, programs, and facilities providing services to them under this Act, such sums as provided for in section 100 shall be made available by the Secretary for client assistance projects to be established in each state."

Section 112 is further admended by designating paragraph (b) thereof as paragraph (c) and by adding a new paragraph (b) as follows:

"(b)(1) The Secretary may recognize representatives of such national organizations of handicapped individuals as he may approve in the preparation, presentation, and prosecution of claims under laws administered by this Act and any amendments thereto.

(2) The Secretary may, in his discretion, furnish, if available, space and office facilities for the use of paid full--time representatives of national organizations so recognized.

(3) No individual shall be recognized under this section--

(A) unless he has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(B) unless, with respect to each claim, such individual has filed with the Secretary a power of attorney, executed in such manner and form as the Secretary may prescribe.

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(4) The Secretary may recognize any individual for the preparation, presentation, and prosecution of any particular claim for services or benefits under any of the laws administered by this Act and amendments thereto if ---

(A) such individual has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with such claim; and

(B) such individual has filed with the Secretary a power of attorney, executed in such manner and in such form as the Secretary may prescribe."

Section 112 is further amended as follows:

(a) Paragraph (b) of said section is hereby designated as paragraph (c).

(b) Strike in paragraph (3) of subsection (b) the phrase ",through the State agency designated pursuant to section 101,".

(c) Strike in paragraph (4) of subsection (b) the words "Each State agency" and insert in lieu thereof the words "Each client assistance project".

(d) Strike paragraph (6) and insert in lieu thereof the following paragraph:

"(6) The project shall be administered and operated directly by a private nonprofit organization.".

(e) Add immediately after paragraph (6) as amended by this section the following new paragraph:

"(7) The project shall be funded directly by the Secretary through the Commissioner.".

Section 100(b) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph designated as (2)(C):

"(2)(C) For the purposes of making grants to States and public and nonprofit agencies under section 112 of this title to assist them in meeting the costs of client assistance programs, there is authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1977 and $7,000,000 for the fiscal year ending September 30, 1978."

APPENDIX K

AN ACT

To amend The Comprehensive Employment and Training Act of 1973
to promote improved employment training and employment
opportunities for handicapped individuals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Handicapped Individuals Employment and Training Act of 1976."

SEC. 101. Section 105(a)(1)(D) of the Comprehensive Employment and Training Act of 1973 (hereinafter referred to as the "Act") is amended by inserting immediately after "including low-income persons" the following: ",handicapped persons".

SEC. 102. Section 107(a)(2) of the Act is amended by striking the "and" at the end of clause "(vi)" and inserting the following new clause: "(vii) representatives of organizations of and serving handicapped persons; and" and by striking out "(vii)" and inserting in lieu thereof "(viii)".

SEC. 103. Section 205(c) of the Act is amended by inserting the following paragraph: "(26) assurances that special consideration in filling public service jobs will be given handicapped persons; and", by striking out the "and" at the end of paragraph (25), and by striking out "(26)" and inserting in lieu thereof "(27)".

SEC. 104. Section 205(c)(21) of the Act is amended by inserting "and architectural" immediately before "barriers".

SEC. 105. Section 301(a) of the Act is amended by inserting "handicapped persons," immediately after "older workers,".

SEC. 106. Section 304(a)(4) of the Act is amended by inserting "handicap," immediately after "age,".

SEC. 107. Section 311(c) of the Act is amended by inserting "handicapped," immediately after "disadvantaged,".

SEC. 108. Section 314 of the Act is amended by inserting "and architectural" immediately before "barriers".

SEC. 109. Section 403(4) is amended by inserting ", but nothing in this paragraph should be interpreted to deny participation by handicapped persons otherwise deemed eligible by provisions of this section" immediately before "; and".

SEC. 110. Section 405 of the Act is amended by adding the following new subsection: "(c) Nothing in this section should be interpreted to deny participation in any program authorized in this title by a handicapped person deemed eligible under the provisions of section 403."

SEC. 111. Section 603(1) of the Act is amended by inserting "handicap," immediately before "or beliefs;".

APPENDIX L

Section 120 of the Act is amended by adding the following new subsection:

"(c) In addition to the allotment provided for in subsections (a) and (b) of this section, each State shall be entitled to an incentive grant covering 100 per centum of the costs of rehabilitating a severely handicapped individual and placing such individual in full-time, competitive employment which pays at least the minimum wage."

Section 121 of the Act is amended by adding the following new subsection:

"(d) Notwithstanding the provisions of subsections (b) and (c) of this section, payments may be made under this section to States pursuant to subsection (c) of section 120 for only one year at a time. Payments for such incentive grants shall be based upon the previous year's figures of the number of severely handicapped individuals rehabilitated and placed in employment meeting the provisions of subsection (c) of section 120."

Section 100 of the Act is amended in subsection (b) by striking paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) For the purpose of making grants to States under part C of title I to serve those individuals with the most severe handicaps, as provided for in section 101(a)(5)(A), there is authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1977 and $25,000,000 for the fiscal year ending September 30, 1978, and for each such year such additional sums as the Congress may determine to be necessary."

APPENDIX M

Section 101(9)(C) is hereby amended by striking out the semicolon at the end thereof and adding the following phrase: "along with annual evaluations of the individual's status provided for in paragraph (16) of this section and section 102" and inserting a semicolon at the end thereof.

Section 100 (b) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph designated as (2)(B):

"For the purposes of making grants to States under Part D of this title to assist them in meeting costs of comprehensive rehabilitation services provided in accordance with State Plans under section 101, there is authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1977 and $50,000,000 for the fiscal year ending September 30, 1978."

APPENDIX N

Section 101 is hereby amended by the addition of the following two new paragraphs designated as paragraphs (18) and (19), respectively, and by redesignating the existing paragraphs (18) and (19) as (20) and (21), respectively:

"(18) Provide satisfactory assurances to the Secretary that there is established within each State a State Planning Council as provided for in Section 105 of this Act, together with a description of the design, composition and functions of the same.

(19) Provide satisfactory assurances to the Secretary that there exists in each State an advocacy system to protect and enforce the rights of handicapped individuals pursuant to the provisions of Section 107 of this Act, and that said advocacy system is separate and independent from any agency or department of the State which administers or provides rehabilitation services to handicapped individuals, together with the design, composition and functions of the same."

APPENDIX O

Section 100(b) is amended by striking paragraph (2) and inserting in lieu thereof the following new paragraph designated as (2)(D):

"(2)(D) For the purpose of making grants to States under Part C of title I to serve older blind individuals, as provided for in section 121, there is authorized to be appropriated for the fiscal year ending September 30, 1977, and for the fiscal year ending September 30, 1978, such sums as the Congress may determine to be necessary."

APPENDIX P

Section 502(a) of the Act as amended is hereby amended by striking all of said paragraph (a) as amended and by substituting therefor the following new paragraph:

"ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Sec.503. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be directly responsible to the President through the Office of the Domestic Counsel and which shall be composed as follows:

(1) Three members appointed by the President from lists of nominees submitted by national organizations of handicapped individuals upon the request and invitation of the President, one each to serve for terms of one, two and three years;

(2) three members appointed by the President who shall be representatives of non-governmental organizations or agencies which provide rehabilitation services to handicapped individuals, one each to serve for terms of one, two and three years;

(3) the heads of three of the following departments or agencies (or their designees whose positions are Executive Level IV or higher) to serve for one year in the order and succession enumerated as follows:

(A) Department of Health, Education and Welfare;

(B) Department of Transportation;

(C) Department of Housing and Urban Development

(D) General Services Administration

(E) U.S. Postal Service;

(F) Department of Labor;

(G) Department of Defense;

(H) Department of the Interior;

(I) Veterans' Administration.

(4) The Board shall be convened first upon call of the President through the Office of the Domestic Counsel and the Board shall elect from its membership a chairman from time to time who shall serve for a term not to exceed two years."

Section 502(h) as amended is hereby amended by inserting before the period at the end thereof a comma and "and $3,000,000 each for the fiscal years ending September 30, 1977 and September 30, 1978".

APPENDIX Q

The Rehabilitation Act of 1973 as amended in 1974, is hereby amended by adding a new section which shall be as follows:

"It is hereby declared to be the policy and intent of Congress that workshops and rehabilitation facilities receiving grants or contracts under this Act for construction; renovation; staffing; use as a diagnostic, evaluation, or training facility; or for any other purpose authorized by this Act shall assure their employees, including handicapped individuals, the following:

(1) Compliance with occupational health and safety standards prescribed by the Secretary of Labor;

(2) Wages at rates not less than those prevailing for similar occupations in the locality as determined by the Secretary of Labor under section 6 of the Fair Labor Standards Act;

(3) Coverage for old-age, survivors, disability, and health insurance benefits under titles II and XVIII of the Social Security Act;

(4) Coverage for unemployment compensation benefits under applicable State law, the Social Security Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

(5) Coverage for workmen's compensation benefits;

(6) Participation in any retirement or pension plan;

(7) Applicability of the provisions of 29 U.S.C. 401 (73 Stat. 519)."

Miss JACOBI. I am a substitute for Dr. Bowe, who is sick today.

Senator RANDOLPH. The organization you represent——

Miss JACOBI. Is the American Coalition of Citizens With Disabilities.

Senator RANDOLPH. How long has it been in existence?

Miss JACOBI. It has been in existence since 1974, and it has had a full time paid staff since September 1976.

Senator RANDOLPH. What is your position on the staff?

Miss JACOBI. I am assistant to the director. I have been there 2 months.

Senator RANDOLPH. Well, we welcome you today, and we are gratified that you are appearing for the director.

Miss JACOBI. Thank you, Senator Randolph.

Senator RANDOLPH. You may proceed.

STATEMENT OF MISS JAN JACOBI, ASSISTANT TO THE DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES, INC.

Miss JACOBI. As I said, I am Jan Jacobi, assistant to the director of the American Coalition of Citizens with Disabilities. We are a nationwide consumer-based organization that represents virtually all categories of disability.

Our members include the American Council of the Blind, Council for Exceptional Children, Council of State Administrators of Vocational Rehabilitation, Epilepsy Foundation of America, National Association for Retarded Citizens, National Association of the Deaf, National Association of the Physically Handicapped, National Paraplegia Foundation, Paralyzed Veterans of America, Teletypewriters for the Deaf, and United Cerebral Palsy Association.

Senator RANDOLPH. How many is that?

Miss JACOBI. It keeps going on and on.

Senator RANDOLPH. We are very happy to have you speak for the coalition that has such a central concern.

Miss JACOBI. Thank you.

We also have numerous State and local member organizations, including a growing list of State coalitions. As is our policy, I am speaking this morning for the coalition as a whole. Some of our members may elect to testify on their own behalf, in which case we will endorse their recommendations.

The coalition's central concern is with consumer involvement in programs and activities that affect their human and civil rights. Thus, while many of our member organizations are provider rather than consumer in orientation, all support full participation by disabled people in decisions affecting their lives. For this reason, ACCD wishes to support the work of the subcommittee in effecting such involvement and participation in programs it designs.

Involvement may take several forms. On the policymaking level, consumer advisory panels, consumer representation on boards of directors, and consumer consultation on program implementation and evaluation are essential. Similarly, on the client assistance level, full involvement of disabled clients and students in decisions affecting their lives is vital.

We endorse both kinds of participation as our experience indicates such involvement contributes importantly to increasing responsiveness to and sensitivity about the needs and potentials of disabled people. The need is not for tokenism but for meaningful involvement from the beginning and extending through the implementation and evaluation of programs and activities.

A closely related concern of the coalition is nondiscrimination and affirmative action on behalf of disabled people in programs and activities designed by the Congress. The subcommittee has taken the lead in this area and we are pleased to recognize its role as a catalyst in stimulating equal opportunity employment for disabled people.

Particularly in the field of education and other human services, disabled people interested in and qualified for positions have experienced great difficulty in obtaining employment commensurate with their abilities. We feel this is unfortunate as programs which serve disabled individuals might be expected to have unusual sensitivity to the contributions disabled people can make to enhanced service delivery.

Again, we wish to stress that it is not tokenism we seek but full and equal opportunity. We support the employment of qualified disabled people and do not endorse employment of individuals for the mere sake of such employment. Disabled people have important contributions to make as professionals and program administrators, teachers and therapists, paraprofessionals and role models. Yet human service programs rarely employ disabled people in any capacity and almost never in professional positions.

We propose two kinds of approaches to this problem. One, existing and future legislation may be amended or designed to mandate employment of disabled people on all levels of the program or activity. These mandates must be in the statutes themselves, not merely in preambles, and the regulations must interpret the language to make such employment obligatory rather than optional. This is particularly true of legislation relating to Federal, State, and local governments.

The example being set now in Government is widely believed to be less than exemplary and must be substantially enhanced before the private sector may be expected to follow suit.

A second approach, which is required for our position on employment of qualified individuals to have maximum impact, is to improve vocational and postsecondary education opportunities for disabled people so that they may become qualified for all levels of employment.

Existing legislation protects disabled people from discrimination in programs and activities receiving Federal financial assistance only if they are otherwise qualified. We believe this is a correct stance. The need now is to insure that as many disabled individuals as possible receive the education and preparation they need to compete equally with other individuals.

The Tax Reform Act of 1976 and recently proposed legislation provide for tax incentives to employers for making accommodations for disabled employers and for employing disabled people. Our concern centers around the problem of providing such assistance to employers without specifying that the disabled individuals be qualified for the positions involved and that these positions be commensurate with their abilities and offer advancement opportunities.

It is employment of qualified disabled people we seek to promote, not mere employment; we wish to help employers recognize the value of hiring on the basis of ability and contribution rather than on the basis of disability.

Another proposed idea is to certify disabled people and to place their names on a national (or regional, State, or local, as the case may be) registry of disabled jobseekers.

As the system works in Great Britain, we understand employers are required to hire a minimum proportion of their work force from the registry before going outside it to hire nondisabled individuals. The system is coercive. While it may prove necessary at some point in order to insure disabled people an equal opportunity to work, it should be possible for American employers to do the job voluntarily with the assistance of tax incentives and other encouraging legislation.

A final issue related to employment of disabled individuals concerns unusual and extraordinary expenses many must incur in order to work and to get to and from work. Prosthetics, wheelchairs, vans, and other devices and equipment are expensive, but necessary if employment is to be possible. At present, many disabled people are caught in a double bind; jobs available to them are low level, poor paying positions, yet the individuals must incur extra expense in order to work. It should be possible for us to find an answer to this.

One possible mechanism is to extend the tax deductions available on travel undertaken for an employer to incorporate travel to and from the usual place of employment where disabilities make such travel unusually expensive and to offer similar incentives for other devices or services necessary for employment.

Along the same lines, we must take a serious look at such disincentives as currently exist in medicare and social security legislation. Seriously disabled individuals often must incur very high medical expenses for which they are covered if they do not work, but for which they often cannot obtain protection if they become employed.

Current medicare regulations, for example, stipulate that if employment is terminated for any reason the individual must wait 2 full years before receiving medical support payments. This discourages many disabled people from seeking employment because they are well aware that employment may be terminated for a host of reasons beyond their control.

Similarly, supplementary social security income terminates after the individual reaches the level of $2,400 a year in income. This is another disincentive. It has been estimated that a paraplegic individual would have to earn as much as $12,000 to be able to afford the medical care available under SSI. It would be an important incentive for disabled people to permit the medical support payments to continue after employment as these are extraordinary expenses not incurred by other employees and jobseekers.

But we must look beyond education, employment and social security. Disabled Americans have all the needs other citizens present. Recent legislation has made important, even historic, advances toward equality of opportunity for disabled people in this country. The subcommittee has been instrumental in this work. We must take our efforts one step further, however, to insure that the rights and privileges of citizenship are fully extended to the disabled population. Strict enforcement and compliance guidelines are needed, both to strengthen existing laws and to insure that future statutes do not become mere expressions of policy.

We need to look at revenue sharing, public works, recreation, housing, medical care, transportation, cultural affairs, communications and other areas of American life, and work to insure that equality of opportunity is provided.

We have, at present, a bewilderingly complex maze of programs on the Federal and State levels that frequently overlap and often leave large gaps in service delivery. The disabled population of this country has not been informed adequately of the rights and privileges to which it is entitled; assistance is needed, too, in helping these people obtain the services they need and desire.

Government statistics on disability are grossly inadequate; it is typical rather than exceptional for two agencies to issue widely diverging estimates of the prevalence of the same disability. In the face of uncertain and contradictory estimates of need and demand, effective planning and resource allocation is almost impossible.

The problem is becoming worse as more and more disabled individuals are multiple disabled. Our service delivery system is geared to single disability treatment. As presently constructed, it is inadequate to meet the need, and with the growing incidence of multiple disability, it will become increasingly inadequate. And you have requested advice on what to do.

For all these reasons, the American Coalition of Citizens with Disabilities proposes the concept of a "Disabled Americans Act." We believe this is an idea whose time has come. The act would establish a coordinated program that cuts across program specialties because disabled peoples' needs cut across programs.

The model of the Veterans' Administration is one possible vehicle; the Administration on Aging is another. A third possible approach is to establish, in the Office of the President, a special assistant position responsible for coordination of all Government activities affecting disabled people, with special assistants to each agency head responsible for intra and interagency coordination.

We are not prepared to specify at this time which model would be most appropriate. It is the concept that concerns us now. The proposed act would address itself to the following problems, all of which relate to the coordination issues:

1. Centralization of expertise on disability with channels for communication to all programs affecting disabled people.
2. Uniform definitions and eligibility standards with appropriate modifications as neded to insure fair treatment of disabled individuals as they move from program to program.
3. Comprehensive data collection and analysis for program planning. modifications as needed to insure fair treatment of disabled individuals advise them of their rights and privileges.
5. Public awareness and support of integration into the mainstream of American life of people who have disabilities.
6. Strong compliance and enforcement procedures and guidelines, and
7. Investigatory and regulatory programs concerning prosthetics and devices developed and marketed for use by disabled people.

These features are not revolutionary; indeed, few of them are really new. Rather, the intent is to bring together in a coordinated fashion the programs previous legislation has established piecemeal, to insure vigorous enforcement and uniform compliance, to eliminate duplication and gaps in service delivery, to accelerate integration of disabled people into the community, and to set a model for the States to follow.

The disabled people of this country have come together after decades of intradisability ethocentism and interdisability competition. They recognize that they share many needs and concerns and that cooperation is preferable to confrontation. And they come to you today to ask their Government to get its act together. Few initiatives would be as important.

Senator STAFFORD [presiding]. Thank you very much, Miss Jacobi, for your excellent presentation.

In many different ways I was intrigued with your proposal with respect to the Disabled American Act, and I would ask you to be more specific about your proposal. But I would say if you would rather respond in writing, in order to be detailed about it, we would let you do it that way.

Miss JACOBI. I think the coalition would prefer to respond in writing, especially since I would like consultation with Dr. Bowe.

Senator STAFFORD. That would be fine.

If we could have that on a timely basis, so that the full committee can have an opportunity to study it in detail.

I have one other question. Are you proposing a quota system with reference to the hiring of the disabled in Federal programs and activities?

Once again, if you would rather respond in writing, the Chair would advise you that you may do so.

Miss JACOBI. I think I would rather do that.

Senator STAFFORD. In that case, the Chair wishes to thank you for the subcommittee, and assure you that the members of the subcommittee who have not been able to be here this morning because they have other committee assignments, will all study the testimony which you and the other witnesses have given to the subcommittee in the course of our deliberations.

[The prepared statements of Miss Jacobi, Association of Rehabilitation Facilities, and CPS Workshop follow:]

Room 817, 1346 Connecticut Avenue, N.W. • (202) 785-4265
Washington, D.C. 20036

**American
Coalition of
Citizens with
Disabilities
Inc.**

TESTIMONY OF AMERICAN COALITION OF CITIZENS WITH DISABILITIES (ACCD) BEFORE THE SUBCOMMITTEE ON THE HANDICAPPED OF THE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

February 28, 1977

Miss Jan Jacobi
Assistant to the Director

Our members include the American Council of the Blind, Council for Exceptional Children, Council of State Administrators of Vocational Rehabilitation, Epilepsy Foundation of America, National Association for Retarded Citizens, National Association of the Deaf, National Association of the Physically Handicapped, National Paraplegia Foundation, Paralyzed Veterans of America, Teletypewriters for the Deaf, and United Cerebral Palsy Associations. We also have numerous State and local member organizations, including a growing list of State coalitions. As is our policy, I am speaking this morning for the Coalition as a whole. Some of our members may elect to testify on their own behalf, in which case we will endorse their recommendations.

The Coalition's central concern is with consumer involvement in programs and activities that affect their human and civil rights. Thus, while many of our member organizations are provider rather than consumer in orientation, all support full participation by disabled people in decisions affecting their lives. For this reason, ACCD wishes to support the work of the Subcommittee in effecting such involvement and participation in programs it designs. Involvement may take several forms. On the policy-making level, consumer advisory panels, consumer representation on boards of directors, and consumer consultation on program implementation and evaluation are essential. Similarly, on the client-assistance level, full involvement of disabled clients and students in decisions affecting their lives is vital. We endorse both kinds of participation as our experience indicates such involvement contributes importantly to increasing program responsiveness to and sensitivity about the needs and potentials of disabled people. The need is not for tokenism but for meaningful involvement from the beginning and extending through the implementation and evaluation of programs and activities.

A closely related concern of the Coalition is nondiscrimination and affirmative action on behalf of disabled people in programs and activities designed by the Congress. The Subcommittee has taken the lead in this area and we are pleased to recognize its role as a catalyst in stimulating equal opportunity employment for disabled people. Particularly in the field of education and other human services, disabled people interested in and qualified for positions have experienced great difficulty obtaining employment commensurate with their abilities. We feel this is unfortunate as programs which serve disabled individuals might be expected to have unusual sensitivity to the contributions disabled people can make to enhanced service delivery. Again, we wish to stress that it is not tokenism we seek but full and equal opportunity. We support the employment of qualified disabled people and do not endorse employment of individuals for the mere sake of such employment. Disabled people have important contributions to make as professionals and program administrators, teachers and therapists, paraprofessionals and role models. Yet human service programs rarely employ disabled people in any capacity and almost never in professional positions.

We propose two kinds of approaches to this problem. One, existing and future legislation may be amended or designed to mandate employment of disabled people on all levels of the program or activity. These mandates must be in the statutes themselves, not merely in preambles, and the regulations must interpret the language to make such employment obligatory rather than optional. This is particularly true of legislation relating to Federal, State, and local governments. The example being set now in government is widely believed to be less than exemplary and must be substantially enhanced before the private sector may be expected to follow suit. A second approach, which is required for our position on employment of qualified individuals to have maximum impact, is to improve vocational and post-secondary education opportunities for disabled people so that they may become qualified for all levels of employment. Existing legislation protects disabled people from discrimination in programs and activities receiving Federal financial assistance only if they are otherwise qualified. We believe this is a correct stance. The need now is to ensure that as many disabled individuals as possible receive the education and preparation they need to compete equally with other individuals.

The Tax Reform Act of 1976 and recently proposed legislation provide for tax incentives to employers for making accommodations for disabled employers and for employing disabled people. Our concern centers around the problem of providing such assistance to employers without specifying that the disabled individuals be qualified for the positions involved and that these positions be commensurate with their abilities and offer advancement opportunities. It is employment of qualified disabled people we seek to promote, not mere employment; we wish to help employers recognize the value of hiring on the basis of ability and contribution rather than on the basis of disability. Another proposed idea is to certify disabled people and to place their names on a national (or regional, State, or local, as the case may be) registry of disabled job-seekers. As the system works in Great Britain, we understand employers are required to hire a minimum proportion of their workforce from the registry before going outside it to hire nondisabled individuals. The system is coercive. While it may prove necessary at some point in order to ensure disabled people an equal opportunity to work, it should be possible for American employers to do the job voluntarily with the assistance of tax incentives and other encouraging legislation. A final issue related to employment of disabled individuals concerns unusual and extraordinary expenses many must incur in order to work and to get to and from work. Prosthetics, wheelchairs, vans, and other devices and equipment are expensive but are necessary if employment is to be possible. At present, many disabled people are caught in a double bind: jobs available to them are low-level, poor paying positions, yet the individuals must incur extra expenses in order to work. It should be possible for us to find an answer to this.

One possible mechanism is to extend the tax deductions available on travel undertaken for an employer to incorporate travel to and from the usual place of employment where disabilities make such travel unusually expensive and to offer similar incentives for other devices or services necessary for employment.

Along the same lines, we must take a serious look at such disincentives as currently exist in Medicare and Social Security legislation. Seriously disabled individuals often must incur very high medical expenses for which they are covered if they do not work but for which they often cannot obtain protection if they become employed. Current Medicare regulations, for example, stipulate that if employment is terminated for any reason the individual must wait two full years before receiving medical support payments. This discourages many disabled people from seeking employment because they are well aware that employment may be terminated for a host of reasons beyond their control. Similarly, Supplementary Security Income terminates after the individual reaches the level of $2400 a year in income. This is another disincentive. It has been estimated that a paraplegic individual would have to earn as much as $12,000 to be able to afford the medical care available under SSI. It would be an important incentive for disabled people to permit the medical support payments to continue after employment as these are extraordinary expenses not incurred by other employees and job-seekers.

But we must look beyond education, employment, and social security. Disabled Americans have all the needs other citizens present. Recent legislation has made important, even historic, advances toward equality of opportunity for disabled people in this country. The Subcommittee has been instrumental in this work. We must take our efforts one step further, however, to ensure that the rights and privileges of citizenship are fully extended to the disabled population. Strict enforcement and compliance guidelines are needed, both to strengthen existing laws and to ensure that future statutes do not become mere expressions of policy. We need to look at revenue sharing, public works, recreation, housing, medical care, transportation, cultural affairs, communications, and other areas of American life and work to ensure that equality of opportunity is provided.

We have, at present, a bewilderingly complex maze of programs on the Federal and State levels that frequently overlap and often leave large gaps in service delivery. The disabled population of this country has not been informed adequately of the rights and privileges to which it is entitled; assistance is needed, too, in helping these people obtain the services they need and desire. Government statistics on disability are grossly inadequate; it is typical rather than exceptional for two agencies to issue widely diverging estimates of the prevalence of the same disability. In the face of uncertain and contradictory estimates of need and demand, effective planning and resource allocation is almost impossible. The problem is becoming worse as more and more disabled individuals are multiply disabled. Our service-delivery system is geared to single-disability treatment. As presently constructed, it is inadequate to meet the need, and with the growing incidence of multiple disability, it will become increasingly inadequate. And you have requested advice on what to do.

For all of these reasons, the American Coalition of Citizens with Disabilities proposes the concept of a "Disabled Americans Act." We believe this is an idea whose time has come. The Act would establish a coordinated program that cuts across program specialties because disabled people's needs cut across programs. The model of the Veterans' Administration is one possible vehicle; the Administration on Aging is another. A third possible approach is to establish, in the Office of the President, a special assistant position responsible for coordination of all government activities affecting disabled people, with special assistants to each agency head responsible for intra- and inter-agency coordination. We are not prepared to specify at this time which model would be most appropriate. It is the concept that concerns us now. The proposed Act would address itself to the following problems, all of which relate to the coordination issue: (1) centralization of expertise on disability with channels for communication to all programs affecting disabled people; (2) uniform definitions and eligibility standards with appropriate modifications as needed to ensure fair treatment of disabled individuals as they move from program to program; (3) comprehensive data collection and analysis for program planning; (4) information and referral assistance to disabled individuals to advise them of their rights and privileges; (5) public awareness and support of integration into the mainstream of American life of people who have disabilities; (6) strong compliance and enforcement procedures and guidelines; and (7) investigatory and regulatory programs concerning prosthetics and devices developed and marketed for use by disabled people.

These features are not revolutionary; indeed, few of them are really new. Rather, the intent is to bring together in a coordinated fashion the programs previous legislation has established piecemeal, to ensure vigorous enforcement and uniform compliance, to eliminate duplication and gaps in service delivery, to accelerate integration of disabled people into the community, and to set a model for the States to follow.

The disabled people of this country have come together after decades of intra-disability ethnocentrism and inter-disability competition. They recognize that they share many needs and concerns and that cooperation is preferable to confrontation. And they come to you today to ask their government to get its act together. Few initiatives would be as important.

# # # #

1339

American
Coalition of
Citizens with
Disabilities
Inc.

Room 817, 1346 Connecticut Avenue, N.W. • (202) 785-4265
Washington, D.C. 20036

Received
Date 3/7/77
Subcommittee on
The Handicapped

Honorable Jennings Randolph, Chairman
Subcommittee on the Handicapped
Senate Committee on Labor and
Public Welfare
Russell Senate Office Building
Washington, D. C. 20560

Dear Senator Randolph:

Thank you for the opportunity you afforded ACCD to testify before the Subcommittee. You have my sincere apologies for an untimely illness that prevented my being there. I am also appreciative of the opportunity to respond to two questions that were raised.

First, we do not support certification or "quotas" in employment of disabled people. The concept of certification was specifically termed "coercive" in the testimony and I was careful to say that I believed we could do better voluntarily.

And second, I would have liked to have spelled out our ideas on a "Disabled Americans Act" in greater detail. I was prevented from doing so because many of us in the Coalition are still exploring alternative approaches. We agree on the general concept, and I was authorized to present it to you at the hearings, but the fine details have yet to be worked out to the point we will be able to present our thinking to the Subcommittee. As soon as we reach this point, however, we will be in touch with you.

Sincerely yours,

Frank

Frank G. Bowe, Ph. D.
Director

ASSOCIATION OF
REHABILITATION
FACILITIES

5530 WISCONSIN AVENUE, SUITE 955, WASHINGTON, D.C. 20015 TELEPHONE (301) 654-5882

Director
T P Hipkens

February 25, 1977

3/2/77

Senator Jennings Randolph
Chairman
U.S. Senate Committee on Human
Resources
Subcommittee on the Handicapped
Russell Senate Office Building, Room 10-B
Washington, D.C. 20515

Dear Senator Randolph:

It is my understanding that your committee is currently conducting hearings on "Programs for the Handicapped". On behalf of the more than 1,000 rehabilitation facility members of the Association of Rehabilitation Facilities (ARF) we would like to request that this statement be entered into the record of proceedings of your committee. These facilities provide physical and vocational rehabilitation to more than 300,000 individuals annually and are essential providers of services to the state-Federal rehabilitation program and to other state, federal, and local governmental agencies. Recently Senator Humphrey of Minnesota, resubmitted a bill S. 506 "Wage Supplements for Handicapped Individuals" which has been referred to your committee for its review and consideration. At this time on behalf of the membership of ARF, we would like to express our full and complete support of the bill as proposed by Senator Humphrey. It is our hope that in the future your committee will devote thorough and complete attention, consideration and hearings to matters concerning handicapped individuals and wage supplements (particulary the interfacing of the national income support program and S.S.I with the rehabilitation program). As currently operated this income support program offers significant disincentives to rehabilitation to full competitive employment. Because of this lack of congruence and other reasons Senator Humphrey has introduced S 506 to remedy some of the inequities encountered by long term clients served by workshops and work activity centers.

As a part of our testimony before your committee on February 23, 1976. (a bit more than one year ago) we testified on behalf of S. 2019 a prior version of the wage supplement bill currently under consideration. For your reference I am enclosing an excerpt of the position paper appended to this current testimony. Today, this is still the firm and well considered opinion of our organizations constituent members that the time for instituting a wage supplement demonstration program is long overdue. With the promise of the forthcoming White House Conference on Handicapped Individuals and the recently announced President's Commission on Mental Health, it is all the more appropriate that this committee take serious consideration to amending the Rehabilitation Act to provide for a wage supplement provision for handicapped individuals. Before closing, we would like to offer our sincere commendations to this committee's chairman and its membership for their advocacy and interest in the welfare of this nations handicapped citizens. This fine tradition of concern for their welfare can only be reinforced and sustained through your affirmative consideration of Senator Humphreys proposal. If we can be of any further possible assistance to you or your committee in their deliberations we would be delighted to do so.

Sincerely,

Charles S. Richman

Charles S. Richman
Director, Program Development

Enclosure: Appendix, Position Paper on Wage Supplements for
Handicapped Individuals

C.S. Richman
2/19/76

APPENDIX "B"

ASSOCIATION OF REHABILITATION FACILITIES
POSITION PAPER
on
WAGE SUPPLEMENTS
for
HANDICAPPED INDIVIDUALS

INTRODUCTION

On August 7, 1974, Senator Hubert H. Humphrey of Minnesota introduced a bill to amend the Rehabilitation Act of 1973 to provide for a program of Wage Supplements for Handicapped Individuals (S. 3884). This legislation proposed a demonstration program to examine the feasibility of the payment of wage supplements to handicapped individuals who are employed on a long-term, extended basis in rehabilitation facilities which are sheltered workshops or work activities centers. This bill was referred to the Committee on Labor and Public Welfare, and was subsequently defeated when introduced on the floor of the Senate when introduced without consideration by the Committee. Subsequently, on June 26, 1976 Senator Humphrey reintroduced the "Wage Supplements for Handicapped Individuals Act" (S. 2019) as an amendment to the Rehabilitation Act of 1973 and this bill was referred to the Committee on Labor and Public Welfare for consideration. It was concluded by the Senate Committee on Labor and Public Welfare - Subcommittee on the Handicapped, that the proposed amendment should be considered in conjunction with review of data obtained from the Sheltered Workshop Study which was germane to the issue of income supplement and maintenance programs for sheltered workshop clients. A companion bill (H.R. 9979) was introduced in the House of Representatives by Congressman Nolan, and this bill has been referred to the House Committee on Education and Labor.

In an effort to adequately and accurately assess the views of its constituent membership, ARF solicited comment from affiliated state chapters. This produced a representative sampling of comment on the legislative proposal which comprises a sampling of more than 2/3 rds of the ARF institutional membership. It has been the on-going and consistent policy of ARF to support the provision of extended employment opportunities in sheltered workshops for handicapped individuals who cannot compete and participate in competitive employment due to limited productivity and other inhibiting problems. Furthermore, there has also been a basic concern that earnings based upon the productivity of the extended sheltered workshop client are frequently inadequate to enable these impaired individuals to fully participate in our society as is made possible by standard wages paid in competitive industrial employment. Wages based upon productivity which are below the prevailing national minimum wage are provided through special exemption under Wage and Hour Regulations as authorized by the Fair Labor Standards Act. While recognizing that extended sheltered employment should be provided as an option to the handicapped, the Association also supports the notion that every handicapped individual deserves the opportunity to receive a fully sufficient income in order to maintain a proper standard of living.

Consistent with this overall philosophy, in May, 1975, the Board of Directors of ARF adopted a position in support of the proposed wage supplement legislation. This position was adopted with the provision that the proposed demonstration program be conducted in such a manner as to be consistent with the following principles:

- That there be a separation of earned income based upon productivity from an income supplement to be presented in a distinct and separate payment directly to the handicapped individual from government sources
- That eligibility for such wage supplements be restricted solely to those handicapped individuals employed in extended workshop or work activities settings and that this program should be extended to all eligible handicapped individuals irrespective of type of mental or physical handicap
- That there be an inverse relationship established in a benefit formula whereby the wage supplement would be reduced as productivity and hence earned income inverse; this principle is based upon avoiding disincentives to competitive employment
- That the proposed wage supplement should be exempt from all state and Federal income taxes (including social security) and that such supplements shall not reduce either the eligibility for or benefit levels from other service and/or income support programs (including medical benefits, food stamps, S.S.I., etc.)

RECENT DATA

Data regarding the nature of "income maintenance programs" in workshops is now available as reported in The Role of the Sheltered Workshops in the Rehabilitation of the Severely Handicapped, the comprehensive study of workshops authorized by Congress within the Rehabilitation Act of 1973. This study reports that current earned wages for all workshop clients (transitional and extended) range from an average of $1.78 per hour to $.36 per hour. In terms of annual earnings workshops for the blind paid an average of $2,610 for each client per year with corresponding amounts of $2,010 in general workshops, $1,030 in workshops for the mentally ill and retarded, and $520 per annum in work activities centers. Clients in regular work programs generally worked about 30 hours per week and those in work activity centers from 15 to 20 hours of work per week.

Nearly 20% of all workshops sampled reported that they subsidize client earned wages primarily for the purpose of bringing earnings under price rate systems up to the hourly earning levels required and specified under applicable Wage and Hour certificates. Those workshops indicating a wage subsidy beyond productivity levels reported spending a total of $645,000 on subsidies for clients in regular work programs, with a mean subsidy of $.30 per hour per client. This in effect represents one hidden cost of rehabilitation which is assumed by the workshop. The report states that, "It is clear that these annual earnings do not obviate the need for other sources of support for disabled workers in sheltered workshops. During their stay in the workshop, and at termination, a large number of clients continue to rely on some form of public benefits and/or their family for primary or supplementary sources of support."

In addition to the data reported on client earned wages in workshops, the study also reports that among a sample of approximately 9,000 clients in workshops, approximately 26% are receiving either S.S.I., O.A.S.D.I., or

A.F.D.C. income and benefits; upon entry into workshop programs, 10% are receiving Supplementary Security Income. Over 20% of the clients surveyed reported these income sources as their major sources of income at entry, with 7% reporting S.S.I. as the major source of income at entry. The combination of all these income maintenance programs represents the second largest source of income support with family and/or relatives as the first largest source. It should be noted that at the time the sample was obtained that the S.S.I. program had just been initiated, and that this data may under-represent the current levels of support for workshop clients. However, the data reported applies to all workshop clients, including transitional, work adjustment and evaluation clients as well as extended clients and thus over-represents the extent of current income support for extended clients under existing income maintenance programs.

Recent data from Social Security analyses indicates that there is a total nationwide recipient population of 4.3 million individuals of whom 2 million are handicapped recipients. The average monthly supplement ranges from approximately $106 per month to $205 per month with actual benefits being based upon a federal standard of $157.70 per month which may be supplemented by state supplementary payments and which are reduced by earned or contributed incomes. As of January 1, 1976 the earning guidelines issued by the Social Security Administration as applied to substantial gainful activity for use in assessing the work activity of Title II and Title XVI disability claimants and beneficiaries is $230 per month, with a secondary guideline of $150 per month. (Federal Register, "Social Security Claimants and Beneficiaries, Wednesday, February 18, 1976.) In the case of individuals working in sheltered whose activities are limited by his impairment so that his earnings average $230 per month or less, it is not normally determined that the individual can engage in substantial gainful employment and be ineligible for S.S.I. benefits. Current guidelines exempt the first $20 of income, an additional disregard of $65 of earned income, and 1/2 of any earnings above $65 in reducing S.S.I. benefits.

It was concluded in the recommendation portion of the Workshop Study that one of the means for raising the income of workshop clients currently receiving S.S.I. benefits is to reduce the degree to which benefits are reduced due to earnings. Furthermore, it was concluded that, "if a system of direct subsidies or supplements to client wages is to be considered, the feasibility and impact of this approach should be demonstrated through pilot projects, and the effects should be carefully monitored. It is clear that the reported extent of support under existing income maintenance programs falls short of the potential beneficiaries of this program. The extent of the lack of identification of eligible beneficiaries and subsequent support is critical to the consideration of a specialized wage supplement for handicapped workers in extended employment situations in workshops. Furthermore, should this statute be enacted, consideration must be given to the reduction or termination of existing benefits which might result from these wage supplements.

CONCLUSIONS

In order to achieve the goals of allowing for extended work opportunities for the severely impaired in workshops, basing earned income on productivity, allowing for a wage supplement to compensate for low productivity and low wages, while not providing disincentives for placement into outside competitive employment, a new process seems appropriate. It is clear that employment-oriented human service programs and income maintenance programs must be viewed as complementary. Any proposed supplement program must solve the problem of inadequate wages to low achieving and/or low productive handicapped workers in workshops, but would retain an incentive for the handicapped to improve and progress. The paramount concern should be for service and cash equity for the handicapped and the maintenance of an income floor while promoting the theraputic and adjustive growth of the handicapped individual. It has been argued by some that an overall income supplement program under the Social Security Administration should adequately cover the income needs of the handicapped, including those handicapped employed in workshops. However, the accessibility of the S.S.I.-S.S.D.I. to all potentially eligible recipients is in question; in addition, the need to integrate income supplements in a complementary fashion with the specific needs of handicapped individuals employed in a theraputic workshop setting is also pertinent. It is therefore the positior of ARF, that a demonstration program for wage supplements be initiated under the format suggested by Senator Humphrey. This effort should be accompanied by a thorough analysis of current and potential benefits under the existing S.S.I.-S.S.D.I. Program for sheltered workshop clients.

502/451 4631

CPS WORKSHOP

A FACILITY OF THE CEREBRAL PALSY SCHOOL OF LOUISVILLE · 1520 BAXTER AVENUE, LOUISVILLE, KENTUCKY 40205

March 2, 1977

Senator Jenning Randolph, Chairman
U.S. Senate Committee on Human Resources
Subcommittee on the Handicapped
Russell Senate Office Building, Room 10-B
Washington, D.C. 20515

Dear Senator Randolph:

It is my understanding that on February 28, 1977, Senator Humphrey was to testify on behalf of S. 506 before hearings on "Programs for the Handicapped" of your Senate Sub-committee on the Handicapped. I will appreciate your accepting this letter as reinforcement of Senator Humphrey's proposal and your serious consideration and support for a Wage Supplement Program for the Severely Handicapped with the provisions that:

- there is a clear seperation of earned income and the income supplement so as not to confuse earned and unearned incomes;
- eligibility for wage supplements be extended only to long term low productivity (below 50%) clients without restriction on the type of mental or physical handicap eligible;
- there be a supplement benefit formula which reduces the supplement as earned income increases so as not to provide disincentives to increasing productivity and rehabilitation to competitive employment.

Our workshop, for example, is now serving approximately 100 severely handicapped young adults, 97% of whom have one or more severe handicaps. It is extremely difficult to function and to provide the services desperately needed for long range (1 - 10 years minimum) from present sources of funding and from earnings from sub-contracts and or the manufacture of items, as the severity of the clients handicap restricts production efforts.

Senator Jenning Randolph
Page 2
March 2, 1977

Thank you for your attention to this matter and certainly for your past efforts for the benefit of the handicap.

Very truly yours,

Robin Garr
Director

RG/ds

CC: Senator Hubert Humphrey
Senator Wendell Ford
Senator Walter Huddleston
Congressman Romano Mazzoli
Mr. T. P. Hipkens

Senator STAFFORD. Now, the Chair is going to announce that the next hearing of this subcommittee will be on Wednesday, March 2 at 9:30 a.m., in room 3302, which is neither this room nor the Public Works Committee room, which we have used on some occasions. It is on the third floor in this building.

The March 2 hearing will be an extension of Education of the Handicapped Act, and other educational concerns.

If there is nothing further, the Chair will announce the committee is in adjournment until March 2 at 9:30 in room 3302.

[Whereupon, at 11:17 a.m., the subcommittee recessed, to reconvene at 9:30 a.m., Wednesday, March 2, 1977.]

REVIEW OF PROGRAMS FOR THE HANDICAPPED, 1977

Education of the Handicapped Amendments of 1977

WEDNESDAY, MARCH 2, 1977

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The subcommittee met at 9:45 a.m., in room 3302, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee), presiding.

Present: Senators Randolph and Stafford.

Staff present: Patria Forsythe, professional staff member.

Senator RANDOLPH. I want to welcome you to the Human Resources Committee's Subcommittee on the Handicapped. The reason I am using that expression is because it is no longer the Labor and Public Welfare Committee. I am sure most of you have followed the Senate reorganization activities. The Human Resources Committee is the umbrella under which this subcommittee operates.

We are going to be counseling with those persons and those officers of organizations primarily concerned with the education of handicapped children. There are a variety of concerns which will be presented to us by witnesses today. The members of our subcommittee welcome the witnesses as we always welcome you, as partners in what we are doing, not only in the review of legislation and the implementation of it, but also in the development of legislation which is presented to the Senate.

We are grateful that you have indicated your willingness to assist as this subcommittee membership carries out its important responsibilities, especially today when the thrust of testimony is on the educational programs for the handicapped.

Mr. Humphrey, if you will come to the witness table—I want you, Mr. Humphrey, as you present yourself and the organization you represent, to also introduce for the record the names of the two young women who sit with you at the table. There are more women of voting age in this country than there are men of voting age. Don't forget that. This chairman never forgets that fact.

STATEMENT OF GREGORY A. HUMPHREY, CODIRECTOR OF LEGISLATION, AMERICAN FEDERATION OF TEACHERS, WASHINGTON, D.C., ACCOMPANIED BY SUNNY RICHMAN, GENERAL VICE PRESIDENT, PHILADELPHIA FEDERATION OF TEACHERS, PHILADELPHIA, PA., AND MARILYN RAUTH, DIRECTOR OF EDUCATIONAL ISSUES, AMERICAN FEDERATION OF TEACHERS, WASHINGTON, D.C.

Mr. HUMPHREY. There are also more women in the AFT than there are men and this lobbyist never forgets that fact.

Senator RANDOLPH. Pull the microphone closer to you so our guests will be able to hear your statements.

Mr. HUMPHREY. Thank you, Mr. Chairman.

My name is Gregory Humphrey. I am codirector of legislation of the American Federation of Teachers, AFL-CIO. I am accompanied today by Sunny Richman, who is the secretary of Local 3 of the AFT, that's the Philadelphia Federation of Teachers, and Marilyn Rauth, who is the director of educational issues for the American Federation of Teachers.

We have submitted in advance to the subcommittee a statement that goes on, I think, for some seven pages outlining some of our major concerns. I will not read that statement today but I would ask that the statement be considered and placed into the record at the appropriate point.

Senator RANDOLPH. The complete statement, Mr. Humphrey, will be included in the printed record. You might wish to bring up the points that you think are helpful to us.

Mr. HUMPHREY. Yes, thank you, Mr. Chairman.

We have many concerns regarding education for the handicapped and the services that are provided to handicapped children and with the effectiveness with which the education system can deal with these children. Let me say at the outset that we strongly support your bill, S. 725, to extend the discretionary programs. We believe that training for personnel in the field of special education continues to be a great need.

We would, however, like to point out that more should be done in terms of providing these services on an in-service basis for professionals who are currently in the school system and that this is something that grows more important over time. More and more children who were previously not in the regular school system are being mainstreamed or put into the so-called least restrictive environment. Special education training is becoming as important to regular teachers as to specialists.

We believe that training for the professionals who have to deal with this situation in service is an absolute necessity and that this program should continue and expand to provide this in-service training.

Second, the other discretionary programs. We support their continued existence in law and funding on the part of the Federal Government. We believe that the early childhood demonstration programs have a great role to play in developing models for the education of the preschool handicapped that are not yet backed by solid research. We believe that many different approaches would be useful in terms of trying to find out what actually works best dealing with children.

Also, we as an organization, have over the past few years, advocated as strongly as possible the need for early services, not just in the area of handicapped children but for all children. We believe that with the early childhood services provided in 94–142 this section can again become a research and demonstration type program aimed at providing valid solutions to how you go about dealing with early childhood problems.

While we realize that the primary purpose of this hearing is to deal with S. 725, we have a great many major concerns with part B of the Education for the Handicapped Act. Many of these concerns are outlined in the statement that we have submitted.

But, to augment and supplement the concerns of members of the AFT who are now in the process of dealing with some of these problems, I want to turn the microphone over to Mrs. Richman and have her go over some of the difficulties implementing 94–142 has generated.

Mrs. Richman. The problems I will discuss have been statewide and have already been implemented. I will concentrate on the following areas: Mainstreaming, or least restrictive placement; the individualized educational program and protection for school employees, including due process; protection against malpractice and protection against being held accountable for a projected plan of learning.

No one in this universe can be held accountable for all of this. Local, State, and national teacher bargaining agents must have input and representation from beginning to end in the implementation of this law, including at the State and local levels.

The first priority of this law states that it is to educate those children who have not been receiving any education and the second priority is to educate those children who have the most restricting handicaps within each disability.

The American Federation of Teachers could not agree more with this concept, but the AFT could not disagree more with its implementation. Who are these children we are talking about and what are we saying we should do for them, their parents, their teachers, and the other students in the schools and the classrooms?

We are talking about hydrocephalic children who are born with holes in their hearts, who turn blue periodically and have water on the brain, tubes in their heads which drain off the excess water in the brain. Many times the tube does not work and it must be reshunted. There are no nurses in the schools. Therefore, there must be a nurse provided in each school.

Children who have bones so brittle that if one touches them the wrong way the bones could break. Spinabifida is a condition in children who have separations in their spines and they are paralyzed from the waist down and these children are on crutches. Children who are amputees and double amputees. Cerebral palsy children, some of whom are severely impaired and others who are of normal intelligence. They are orthopedically handicapped because of the effects of their motor perceptions, but not their brain.

Children who are basically taught toilet training, feeding, et cetera in the classroom. This means that there are charts where teachers must note such things as to whether the child sucks, drinks from bottle, eats finger food, blows nose, uses sanitary napkins, can button clothing, put on his underwear, identify dirty messy clothing, discriminate inedible substances, communicate illness, pain, injury, observe safety rules in streets, observe safety rules at play, is aware of danger of fire and electricity.

Another such chart is a toilet training chart and the teacher must fill in such things as, wets, soils, bowel movements, urination, indicate need to go, went willingly, took pants down, sat on toilet, cleaned self, flush toilet. These are the things that teachers have been given by the school authorities to fill out now in the classrooms.

We have autistic children with whom you cannot communicate. In some of these cases, if a teacher gets a child up to 1 year's mentality that is an achievement of a lifetime both for the student and the teacher, and I say child, but the age varies.

Then we have the mildly retarded. These children have been getting an education but there are no provisions for a small class size for these children. They will suffer grossly. The learning disabled. In schools around the country school authorities are phasing out the retarded educables, the mildly retarded children and adding learning disabled classes because of the stigma of RE and the new popular fadism of LD, learning disabled, even though LD specifically excludes children who are mildly retarded.

LD includes children who have antisocial behavior, inability to learn, which can't be explained, difficulty in using language, spoken or written, imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations.

We have emotionally disturbed. These children exhibit over a period of time and to a marked degree an inability to learn, which cannot be explained, an inability to build and maintain satisfactory interpersonal relationships to peers and teachers, inappropriate types of behavior and feelings under normal circumstances, a general pervasive mood of unhappiness or depression or a tendency to develop physical symptoms of fear associated with personal or school problems.

It commonly includes schizophrenics and autistic children. Even where handicapped classes are in existence they are not grouped by handicap. Instead of having all autistic children in a class there are classes with one autistic child, one spinal bifida, one cerebral palsy, and so on.

These things are just the smallest I have given you. The children who are handicapped in most cases have multiple handicaps and may have several of the above examples and not just one. The teachers have found mostly that they are multiple handicapped.

When we talked about the mainstream or the least restrictive placement, this is one of the most difficult parts of the bill in mandating mainstreaming or least restrictive placement because of the problems that have developed. It means that the children mentioned above will be placed in regular schools in classes that may be self-contained in regular schools, or in regular classes in regular schools.

And think of the ramifications. It means a child who has had a psychological examination process is assigned to a regular school. The child can be an orthopedically handicapped child who would be placed in a regular high school perhaps in a wheelchair.

The law says architectural barriers must be removed. The money must be provided immediately for these changes. These children are in the schools and there are no barriers being removed. What about the safety factor of these children in a regular school?

If a fire were to break out how can a teacher get 32 ambulatory students, plus a child in a wheelchair out of the building in an emergency situation when there are no ramps and the class is on the third floor, as they are now? In cities across the country there are severely impaired children who are nonambulatory in regular schools.

Aids must be hired to carry those nonambulatory children, but they are not. The law should mandate this. We are thankful that there has not been a fire as there was in Chicago where there were so many perfectly normal children who lost their lives. You are mandating that all of these children be placed in regular classrooms unless it can be proven through a due process hearing that the child cannot be placed in a regular classroom.

And even if the hearing officer's decision is that the child be placed in a special type class, the parents, under this law, may refuse and the child must remain in a regular classroom. There may be certain areas where mainstreaming can be accomplished with certain types of handicaps but even here, there is nothing in the law that states how the regular teacher is supposed to get the training to handle these children, whom he or she never had to handle before nor was trained to handle.

The law really means that every teacher who has handicapped children in their classes, this means that every teacher must now write an individualized education program for each handicapped child in the teacher's room. And think of the time that this takes, the amount of time and attention that these handicapped children deserve would necessitate the hiring of additional personnel so that the regular children will not be short changed.

In essence, everyone would be affected, the normal children and the handicapped children. How hard we have worked to get special education service for these children in the form of aids, different types of therapists, psychological assistants and now you are saying put these children into regular classrooms.

Staff development in service must be provided according to the law. It is the AFT's position that State development inservice should be provided with compensation during release time during the day when trained substitutes can replace the regular teacher who is acquiring the staff development. Inservice and staff development should be available and should only have to do with training and assistance, not evaluation.

The method of evaluating inservice courses should be on a personnel feedback on what students are achieving. In other words, what you learn in the inservice or staff development course helps. Inservice and staff development are not to be mechanisms to determine whether achievement of the student is successful.

The American Federation of Teachers is in complete agreement and supports incentives for in-service and staff development. It does not want it to be mandatory. The bargaining agents of the teachers and school employees, again, must be included in the formation and development of in-service and staff development from the beginning to the end, and that includes the evaluation methods too.

The individual education program will be a requirement for all teachers, for the special education teachers or regular teachers. But the special education and regular teachers must write a program of education for each individual child, not based on whatever professional education the teacher has had but as only one member of a team consisting of a representative of a local educational agency other than a child's teacher, who is qualified to provide and supervise the provision of special education; the child's parents, where appropriate, the child, other individuals at the discretion of the parent or agency.

If the teacher doesn't have the background, where do all of these other people acquire the background and who is held accountable for the achievement of the child? Not all of these other people, but the teacher. And what does accountability mean? It means that the teacher can lose his or her job because achievement is not met.

Accountability, as the Federal Register states, is a justification for the type of educational placement which the child will have, a list of the individuals who are responsible for implementation of the individualized educational program and objective criteria evaluation procedures and schedules for determining on at least an annual basis whether the short-term objectives are being achieved.

I ask you, does a doctor bring in someone from the medical society, the patient, the patient's relatives and other organizations and agencies that the patient desires when a diagnosis is given? Does a lawyer allow a client to bring in the American Bar Association, the organizations or agencies the client wishes when the lawyer is advising the client on what to do about legal problems?

Does any profession have to undergo this type of unprofessionalism and embarrassment? Placement should first go through psychological examinations and recommendations. A diagnostic educational specialist should do educational testing and assessment of the child.

Based upon the results, it can be fairly well determined which teacher should be teaching the student. The group of teachers, which would be regular and special ed teachers, will determine what the program will be, along with all of the support personnel that will be needed for the child.

The IEP states where the child is now. The AFT objects to projecting annual goals and short-term objectives. We are not fortune tellers. It is against the law to be crystal ball predicters. This type of assessment and program placement should be done at meetings on school time with specially trained substitutes, or after school time with appropriate monetary compensation.

If there is too much of these times it will mean the teachers will be spending much more time reading or writing programs than teaching.

The last part is one of the most important parts, and if you will bear with me I will be most appreciative. It's on due process. In the law, and in the Federal Register, where is there due process for the school? There must be protection from malpractice and accountability written into the law for the school board.

The teacher must have a right to a due process hearing. When a teacher feels that placement is improper, or that a child has been in a regular classroom waiting for placement and the appropriate program to be implemented the child is losing the educational time, and so are the other normal children in the classroom, and the teacher is also suffering from teaching two classes at the same time.

Right now, school employees must undergo due process hearings in the appropriate placement of the child in different States. In the States where due process hearings have been set up under State laws the hearings are called at 7 or 8 o'clock at night and end at 1 o'clock in the morning.

The hearings are called by the parents. The teacher, as we have experienced it, is the target on the stand. The child's parents are able to bring in an attorney and anyone else they want, friends, organizations, agencies, but the teacher is only permitted to have an attorney to advise the teacher.

The teacher's attorney is not allowed to cross-examine, ask questions, raise objections or open his or her mouth. And then, the hearing officer, who is chosen by the State—and how, no one really knows—has the power to mandate that a teacher go back to school for courses, perform chores and duties in violation of the collective bargaining agreements.

The teachers then have to pay for these courses, spend their own time in these classes and their whole lives are disrupted because no one stopped to think that a teacher is a human being. There must be representation for teachers, attorneys for teachers, who have a right to cross-examine and the law must be amended for safeguards.

There must be a guarantee of quality integrated education for handicapped children and for normal children. There must be protection for regular teachers who must now teach handicapped children and for special education teachers of the handicapped.

I am afraid in an attempt to perform a valuable and essential service for handicapped children of our country, which we fully support and have supported for years and years, there may be a disservice to all of the children of the country, their parents and the community at large.

Senator RANDOLPH. Thank you very much, Mrs. Richman. I am going to comment a little later. Do you have further testimony, Mr. Humphrey?

Mr. HUMPHREY. No, sir, just that the statement be included. We stand ready to answer any questions you might have.

Senator RANDOLPH. What about the young woman to your left?

Mr. HUMPHREY. She is our resource person. She will probably answer a lot of questions.

Senator RANDOLPH. Mr. Humphrey. You have recommendations that have to do with the teacher and due process.

Mr. HUMPHREY. Yes, sir. As we've experienced in the first few States that have implemented the IEP, the teacher really has no rights. If, for example, the teacher believes what is agreed upon in the individual education program [IEP] is not sound and cannot be achieved, under the law a teacher just doesn't sign off. That's what I think the Congress contemplated, but I don't think what you contemplated is what happens on the local level when a teacher finds a problem in an IEP, and that is, all of the pressures come from the administration to sign off——

Senator RANDOLPH. Explain what you mean, the pressures?

Mr. HUMPHREY. If the administration and parents are in agreement on a particular program to be devised over the year, ultimately a teacher can have all sorts of pressures put on by the administration up to and including, we have heard—although I don't have any documentation on it—the threatened possibility of dismissal for not signing an IEP.

There is no, as Mrs. Richman pointed out, hearing involved, no real protection. All of the protections are on the side of the parents and the local education agency. We don't object to the idea of their parents having this input. What we object to is the fact that when the LEA and the parents agree on something the teacher is then left holding the bag, possibly to implement something that the teacher never believed in the first place, which could very easily happen. Because of the way the IEP is set up the teacher who designs the IEP might not even be the teacher who is responsible for the child.

And second of all, in the absence of a strong collective bargaining agent, we believe that most of our local unions could do a good job in terms of protecting their membership from this sort of thing, but what about teachers who don't have a bargaining agent? What about teachers who don't have a union contract?

Their problems are that of the individual faced with the strength of the employer on something that really ought to be a cooperative arrangement. These things, unfortunately, do happen and I know that none of us want them to happen but they do happen and we are faced with this problem.

Mrs. Richman. I would like to add just one thing.

Senator Randolph. Yes, Mrs. Richman.

Mrs. Richman. In the experiences we have had where the due process hearings have taken place, the due process hearings are called by the agency or the parents at the time that it is convenient for them. There is no mutually agreeable time, so most of them are in the evening and, as I said, they go on till 1 or 2 in the morning.

But, if you have a strong collective bargaining agent, even there, if we sent in our attorney, the attorney has no rights there whatsoever except to tell the particular school district employee—and it is not only teachers, in fact. There are paraprofessionals involved and school aids. They have absolutely no rights whatsoever in the hearings.

They have their rights in the hearings. They have no rights to ask questions or cross-examine. The teacher is there subpoenaed and that's it.

In our dealings with the State there was a directive put out by a State official. The back of the directive said, "Congratulations, we finally won making sure the AFT attorney could not open his mouth."

Senator Randolph. You will provide information in connection with the least appropriate environment and placement that are made sometimes, as you have indicated, without regard for the welfare of the handicapped child; is that correct?

Mrs. Richman. That is true, the teachers feel very strongly about the placement of the children, for example. They would like the right to institute a due process hearing because the child is still in the regular class; either they have not been tested psychologically or they have been tested psychologically and they are still in a regular class not getting the proper kind of treatment.

Senator Randolph. Mrs. Richman, we do not have a copy of your statement which you have given orally today.

Mr. Humphrey. We would like to rewrite the statement before we submit it. We will submit that statement, not the material she read, but some of the things that weren't read.

Senator Randolph. There is no problem with that, Mr. Humphrey. I am sure Mrs. Richman noticed I was not looking at what she was saying, not having it written on paper, but I was looking at her. I had nothing before me. It was more pleasant to look at you than at a document.

But, as you can understand, I listened very intently to what you were saying. Practically every word I was measuring and attempting, as always, to try to bring together in my own mind the points you were making.

I doubt that I have ever made an award as the chairman of any committee or subcommittee at the time of a hearing but I have a cassette here Mrs. Richman, that I want to present to you.

In 1955, two other Senators and I were speaking to certain business and professional people in Washington, D.C., and I was at that time talking about the importance of being heard when you speak. I am not critical in any sense of witnesses who come and can't be heard, but it is unfortunate when the audience can't hear what is very good testimony.

I call this "your voice is your fortune." If you would feel it not inappropriate, I am going to present this to you today because, as you started to speak, I said, "Here is one of the very few who come before the committees or subcommittees I chair who speak well, who speak so you can be heard." You are very effective.

I might not agree with all that you are saying. That's not important for the moment. And so, we'll make this presentation without any flourish.

Do you want to shoot a picture? Let's bring you down.

Mrs. RICHMAN. I would be honored.

[Senator Randolph presented Mrs. Richman with a cassette.]

Senator RANDOLPH. Mr. Humphrey, you come as codirector of legislation for the American Federation of Teachers.

Mr. HUMPHREY. That's right.

Senator RANDOLPH. So you are in the overall program, not just in a segment of the educational pattern.

Mr. HUMPHREY. That's correct.

Senator RANDOLPH. And Mrs. Richman comes as the secretary of the Philadelphia Federation of Teachers. So, within the AFL-CIO you operate at the national level, Mr. Humphrey. And you, Mrs. Richman, at the local level?

Mrs. RICHMAN. Yes; I'm a trustee of the AFL-CIO in Philadelphia.

Senator RANDOLPH. And there she lowered her voice.

Mrs. RICHMAN. It's different.

Senator RANDOLPH. I'm sorry. Now I'm going to be critical and perhaps no one in the room would agree with me. I have always asked those persons who came before our committee or subcommittee to talk about the problems of teachers, and particularly persons from the National Education Association or the American Federation of Teachers, to discuss with me the problem that continues to surface and even increase—teacher strikes.

You see, I'm against them. You must know that. I believe in collective bargaining. I believe in mediation moving forward. I was one of the authors of the legislation in the 1930's with which you are familiar. Do you remember what it was called?

Mr. HUMPHREY. Do you mean the Wagner Act?

Senator RANDOLPH. Yes, sir. I was one of those who worked very hard for it. I have worked through the years for collective bargaining, but in the instance of public employees, I do not believe they should use the instrument of the strike. What do you think about that, Mr. Humphrey or Mrs. Richman?

Mr. HUMPHREY. The problem that we feel really exists is that you have a situation in the United States—if you don't mind, I'll take a minute or two on this.

Senator RANDOLPH. This is very important.

Mr. HUMPHREY. We have a patchwork of State collective bargaining laws that effect teachers in different situations differently. I am not familiar with the West Virginia law but I can tell you that most laws ultimately leave in the hands of the employer all of the cards when you get into a crisis situation.

That fact being so, many employers—I would go as far to say most employers of public employees have no motivation to really sit down and negotiate and come up with an amicable agreement. Under the National Labor Relations Act——

Senator RANDOLPH. I helped to draft it.

Mr. HUMPHREY. You helped to draft it. You created a system of labor management relations unmatched in the entire world as far as we are concerned. You have a situation where well over 95 percent of all successor agreements are reached without a strike.

You have a situation where management and labor, to some degree, have equalized resources and the result is that it is to both's advantage to sit down and negotiate an agreement. We believe that it is clear that one of the reasons public employee strikes tend to occur with such, in some cases, bitterness, as one did in Philadelphia, which Mrs. Richman can talk about, and one more recently in Pittsburgh, is that the employer has the entire legal structure on his side, and when he feels there is nothing compelling him to reach an agreement then you have frustration that builds up generally over a period of years, by the way, on the part of teachers and ultimately leads to a strike.

And the fact of the matter is, no law ever stopped a strike. What finally stops a strike is a decision of the people to go back either because they are willing to believe that their problems can now be worked out now that they have demonstrated as strongly as they can to the employer what they are willing to do, or because the employer has seen a new light, or some other reason.

But, when you have a gross imbalance between two parties with one of the parties having all the legal machinery on his side, then I think the building up of frustrations which ultimately lead to a strike is more likely than if you have an equalized system of relationships between labor and management in this field.

Senator RANDOLPH. Mrs. Richman, would you care to give a statement on this subject?

Mrs. RICHMAN. Yes. Teachers really do not want to strike. No. 1, they feel an obligation to the children. And, No. 2, they do also feel that they are entitled to improvements in their wages, their fringes, their working conditions.

In the field of education, you cannot separate the teaching conditions from the learning conditions. They are almost the same thing. When the teachers go into negotiations they will submit proposals that are not only of benefit to themselves but of benefit to the educational system.

For example, in the strike that Greg Humphrey was talking about, we had several hundred proposals that were submitted by the teachers themselves and by the employees we represent. Most of them had to do with the educational improvements of the system; smaller classes, books, supplies, repaired equipment, replacement of obsolete equipment, the kinds of things where a teacher could do a job in the classroom, plus the improvement in wages so that there could be a catchup in the inflationary spiraling that had taken place.

And, as Greg Humphrey said, we would like to be under the NLRA because it is true that the collective-bargaining laws in the various States are really skewed against the public employees. When the public employees go out on strike the children are being hurt and they are being hurt. And, of course, the community, but never the board members or the administrators who have perpetrated the strike. They continue to work. They continue to get paid and if there are any makeup days, which rarely occurs, they get paid double for that, so they lose absolutely nothing.

And in our particular case it was a case of where they wanted to break the union because they felt we had too many things in our contract and we had won many rights for our teachers, due process rights. We had won the right to have books and supplies, smaller classes. We even won the right that we had to put in the contract to have snow removal equipment, file cabinets, roll books for teachers.

These are the kinds of things that are included in a contract that people don't even think about. If you consider the budget—not the budget, but the cost of an agreement, let's say, in Philadelphia. They say it's a $100 million settlement. It's not $100 million into the employees' pocket; $50 million of that goes back into the educational system because without the bargaining agent we have never found that the administration will unilaterally decide to reduce class size, give the books and supplies that are needed in the classroom and give the educational improvement that the teachers feel are so necessary to do the job properly.

You can't walk into a class unless you are prepared. You just can't survive. And if you are not prepared and can't teach in a classroom you will be driven out of teaching and so that's the background for what happens.

Now, you get a board and an administration that are determined that they no longer want to have this facing them every 2 years or every 3 years and they are going to break the union once and for all. What do you do? If you don't have the right to strike you just go back.

You are not only hurting yourself monetarily and in your working conditions mentally, but you are hurting the educational system because you are not winning what you should be winning for the system. And so, in 1972 and 1973 we were faced with this and we had two strikes that equaled 11 weeks, and Assistant Secretary of Labor Usery, before he was made Secretary of Labor, was sent in to help mediate that particular set of negotiations because the situation was so bad.

Eight hundred teachers had been arrested. We had $273,000 in fines. Our two leaders were put in jail without bail for 19 days. Twenty-one executive board members were convicted of contempt because we defied the injunction, because we believed that we had to have these improvements.

When Mr. Usery came in he forced good faith collective-bargaining negotiations and we did arrive at a settlement. To us a settlement isn't that we win and we get what we want, or the board wins and gets what they want. It's a compromise. Each has to give, but you arrive at a settlement where you both think that you can live with it, and that's what it should be.

But, when someone is determined not to do that you have no recourse but to withhold your services, and we suffer by doing that a great deal. We lost 11 weeks' pay. Many of our people had 11 children, 12 children, 5 children.

Senator RANDOLPH. How many children were out of school for the 11 weeks?

Mrs. RICHMAN. There were 250,000 children out of school. There was absolutely no intent to settle that agreement until Mr. Usery came in.

Senator RANDOLPH. William Usery has been a very fine mediator for years.

Mrs. RICHMAN. He is quite marvelous.

Senator RANDOLPH. A good man.

This could be a long discussion, but I did want you to give your viewpoint because it will all be part of the record. I ask it of those coming in as Secretary of Labor, whoever that person might be, because I want Mr. Marshall, or anyone who is coming for that position to state his or her position.

The conditions that you, Mrs. Richman, have set forth I have no reason to doubt, none at all. If I were probing further, I would go and find if there is another side to what you said, but that's not possible at the moment. I have no reason to doubt what you've said. I am certain that you are convinced of your facts and I'm also sure that you are telling the truth as you see it.

The truth sometimes appears colored, or vari-colored, as you well know. A jury faces that constantly when listening to witnesses.

Mrs. RICHMAN. We were convicted. We believed what we were saying but they didn't. Senator Randolph, I think the most important thing is that the only parties that are really punished are the employees.

For example, if they are cited for contempt, if they are jailed, if they are fined, if they are convicted, the administration or the board is never cited for contempt, or jailed or convicted or fined for perpetrating a strike. All of the punishment is on one side and perhaps that is an area that can be thought about in some way because that is what promotes the strikes.

There is nothing in the world to prevent a board from creating a strike if they want to because they have absolutely nothing to lose. They have money to save.

Senator RANDOLPH. I am sure you feel very strongly. I go upon the theory that it sometimes takes a long, long time to redress a wrong, but I still, of course, believe public employees should not strike.

I believe that injunctions should be honored. An injunction is a matter of the courts; is that not true?

Mrs. RICHMAN. Yes, that is true.

Senator RANDOLPH. I think you would want to give very careful consideration always to the violation of an injunction. I have not tried to make a point of this today—but because of the positions you hold I felt we wanted the record to give further information to us because I see this as a very real problem in America.

I think it is a growing problem. I heard this morning on my radio about a strike of teachers in a certain community where 17,000 children are now not in school. These strikes are constantly occurring. It is a matter of concern to me as I am sure it is to those of you who sit here today.

But sometimes it is good for you to review your positions, at least in part, on certain actions. It is good for me to do that, and certainly good for the Congress to do it. That is the way I would want to close this subject today.

We are very appreciative that you have come and we are helped by your counseling. We shall, of course, weigh very carefully your recommendations.

Thank you.

Mr. HUMPHREY. May I make one short statement?

Senator RANDOLPH. Yes.

Mr. HUMPHREY. We have a meeting planned in a few weeks of an AFT committee to make more specific recommendations on this program. We would like to submit them to you at that time when our proposals have finalized.

Senator RANDOLPH. As far as I know, we are not sure of the timing of the printed record. How long would it be until these would be available, Mr. Humphrey?

Mr. HUMPHREY. I think it would be less than 2 weeks.

Senator RANDOLPH. Yes, our record will be open until the first of April and we would like to include the material.

Thank you very much.

Mr. HUMPHREY. Thank you.

Mrs. RICHMAN. Thank you very much. I shall always cherish this.

[The prepared statements of Mr. Humphrey and Mrs. Richman and additional material referred to follow:]

TESTIMONY OF
GREGORY A. HUMPHREY
Co-DIRECTOR OF DEPARTMENT OF LEGISLATION
AMERICAN FEDERATION OF TEACHERS, AFL-CIO
TO SENATE SUBCOMMITTEE ON THE HANDICAPPED
ON S. 725

I am Greg Humphrey, Co-director of Legislation for the American Federation of Teachers, AFL-CIO. On behalf of the 475,000 teachers and other education personnel who are members of the AFT, we thank you for the opportunity to offer our views before this Committee on reauthorization of Parts D and C of the Handicapped Act. We also wish to comment on some problems that are developing with the implementation of Part B of the EHA.

At the outset, we would like to express our full support for improved and expanded federal assistance for the education of exceptional children and youth of this nation. The Education of the Handicapped Act represents a major step forward in providng needed services to many previously neglected exceptional children, and we are in general agreement with its provisions. Therefore, Mr. Chairman, we would like to take this opportunity to lend our basic support to your bill, S. 725, which would extend Parts D and C of this Act through 1982.

Within two weeks a special AFT Task Force will meet to discuss EHA problems raised for teachers by Part B, the Education of the Handicapped Act, and we would like to forward those recommendations to you at that time. Our comments today will be limited to general concerns.

Training Personnel for Education of the Handicapped

We believe Part D of the EHA has begun to produce a highly successful effort to recruit, and train new and needed special education personnel. Figures from New York reflect the situation in many other states. In New York State in 1976, for example, the only increase in provisional certification was in the field of special education and this was an increase of 15.6% over the previous year. We believe this trend will continue.However until all the data is in and funding actually going to the states, it is chancy to predict the present adequacy cr inadequacy of trained personnel for special education. The situation is further confused by the fact that many trained special educators are now unemployed or are working in other areas, not because of an oversupply of such professionals but because of school systems' financial restraints.

While it would be premature to state there is no further need for emphasis on preservice training of special educators and support personnel, we agree with the finding of the GAO's report to Congress entitled, "Training Educators for the Handicapped: A Need to Redirect Federal Programs" that much more attention must be given to inservice training for regular teachers working with exceptional children. Inservice training should also be available to special education personnel assuming new roles as a result of placing children in least restrictive environments. While we would like to see provisions for such training emphasized in this legislation, we must reserve judgment on GAO's contention that "the capacity of the nation's colleges and universities is now adequate to meet the demand for special education teachers" until programs have actually been implemented and a valid assessment of supply and demand can be made.

Shortcomings in parts of the GAO report raise questions about its accuracy. The AFT on a philosophical basis supports placement in least restrictive environments, often called mainstreaming, when it is done under the proper conditions. The GAO report, however, states that one factor contributing to increased application of mainstreaming is research demonstrating its advantages. But a study done by Wynne Associates in January 1975 for the Bureau of Education for the Handicapped concluded that research on mainstreaming "suffers from methodological problems that render much of it virtually useless" and that "most of the views about mainstreaming held by its proponents are based on philosophical and political considerations rather than hard data." The study goes on to say:

> At best, the research evidence suggests that a mainstreaming setting is at least as beneficial to mildly handicapped children (predominately educable mentally retarded children) as a self-contained classroom. It is important to emphasize that research into these issues has not been able to substantiate conclusively that mainstreaming is a 'good thing.'

GAO's report also states there is a significant relationship between the direction of the school's handicapped programs and the number of handicapped children served, implying that more children are served as mainstreaming is implemented. Though this may very well be the case, we are disturbed by reports from all over the country that least restrictive environment placements are being made with little regard to the welfare of special or regular children. In some cases, 1) special education and support personnel have been dismissed to reduce costs; 2) regular teachers are not trained to work with the exceptional children already in their classes; 3) special and regular teachers have no time to consult about the needs of mainstreamed handicapped students; 4) class sizes of rooms in which handicapped children are placed force teachers to choose between meeting the needs of the exceptional children or those of the regular students; and 5) the present levels of record-keeping required of both regular and special teachers have left very little time to plan and carry out effective lessons. This situation was not the intent of this Act. Greater safeguards are needed to assure that least restrictive environment improves the quality of education for all.

We also support the continuation of the other EHA discretionary programs. Special education like all other education does not contain an adequate research base to make sound decisions upon. Not enough, has been done to coordinate educational services with existing technology to assist in improving the education of exceptional children.

While we know that EHA part G--special program for children with specific learning disabilities, part C--the Early Childhood program and the Severely Handicapped projects and Regional, Vocational, Adult and Post-Secondary programs, also part C, were intended as demonstration programs. The unmet needs in existence tend to convert them into direct service projects. The new programs in 94-142 for early childhood services should allow more opportunity for establishing of models and demonstration projects through Parts G and C. We in the AFT strongly support the early childhood component. We have done all in our power over the last few years to support the notion that the earlier problems are addressed, the simpler their solution will be.

Education for All Handicapped Children Act -- Part B

The AFT has always strongly supported the right of all children, including those with mental, physical, emotional or learning handicaps, to a "free appropriate public education." For this reason, we supported the basic intent of the Education for All Handicapped Children Act (P.L. 94-142). We have serious questions about some of its provisions, however.

One of the most serious problems in this legislation occurs within the individualized education program (IEP) provision. The law defines the IEP as:

> 1. A written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (a) a statement of the present levels of educational performance of such child, (b) a statement of annual goals, including short-term instructional objectives, (c) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (d) the projected date for initiation and anticipated duration of such services, and (e) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

The inclusion of short-term instructional objectives in the IEP is unrealistic and represents extremely poor educational practice. In addition, it is inconceivable that short-term instructional objectives must be devised for an entire year as a required component of the IEP before a teacher has even worked with a child. Teachers and children must not be locked into short-term instructional objectives and we strongly urge that this requirement be deleted from the IEP. Reporting should be on annual goals only. This Committee should realize that requirements such as this when sent out to the states for implementation can produce quite uneven and in some cases disheartening results. Laws are proposed on the state level with requirements never envisioned by the Federal law but which nevertheless are imposed in the name of satisfying

Federal requirements. We have received reports as to what some states are requiring to satisfy the short-term objective requirements. While the Federal law clearly does not envision the IEP as a binding contract, it is not yet clear that the states will honor this decision.

Another discrepancy in the IEP is the fact that it requires "a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs," in addition to a statement of annual goals and short-term objectives. The child's teacher is among those specified to take part in planning the IEP. Yet, if placement is to be decided at this planning meeting, we question how it will be determined prior to this who the child's teacher or teachers will be. As this does not seem possible, it may very well happen that one teacher would be setting goals another teacher would be held responsible for carrying out. This contradicts one of the reasons for having an IEP in the first place; that is, that a teacher must understand and support the teaching goals set for children with whom they are working. If the teacher in responsible for instruction was not involved in setting the goals such support may not be forthcoming. Although we are eager to see education of the handicapped improved and to have all such children receive an appropriate education, we are concerned about the real-life implications of this provision as now written. Our members would like to see all children receive an individualized education. Such individualization requires reduction in class size and increases in resources not guaranteed by 94-142. While teachers and school systems can be held responsible for providing certain services they cannot ultimately guarantee student achievement. While it appears that this legislation will increase the number of handicapped children served -- a goal we share, it does not provide adequate safeguards for teacher and pupil alike so that the quality of education will be improved for all. Section 612 (5) (b) requires states to establish:

> "procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

Past and present practice have shown tendencies to interpret this as a mandate to return handicapped children to the regular classroom without sufficient consideration as to whether it is in the best interest of the child or whether the regular classroom is equipped to provide a better learning environment for the child. The law should clarify the point that the priority in placement is to provide the setting which is best able to serve the educational needs of the child. It does no good to place children in a less restrictive environment if, in effect, we have not improved the child's educational opportunity.

In Section 615 (e) on Procedural Safeguards, we feel the child's interests would be even better protected if teachers, in addition to handicapped children and their parents or guardians, were guaranteed procedural safeguards with respect to the provision of free appropriate public education. Teachers are aware of many situations in the schools and classrooms which impede children's learning opportunities. Too often, if the local education agency refuses to acknowledge poor or impossible learning conditions, teachers have no recourse but to accept them. For this reason, teachers should be allowed, in addition to the other parties mentioned, to protect handicapped children's interests through due process procedures which assure that pressures to sign off an IEP do not intimidate professionals into agreeing to something they know will not work. Flexibility here should provide for recognition of collective bargaining process as a method for solving problems that arise.

We would like to stress the need for full funding of this legislation. It is expected that even if this were accomplished, the funds would fall far below the amounts required. Many school systems have not yet implemented least restrictive environment placements on a widescale basis as required by this Act. As severely handicapped students are moved toward the mainstream setting, they will have health and safety needs that require the services of an aid or nurse. The heavy burden of all such costs is in no way reflected in the funding formula. The effects upon education in an already financially deficient public education system could be a dilution in the quality of education provided. We, therefore, hope the Committee will review this legislation with an eye to helping improve existing reality for teachers as well as children. In the end, their interests are intertwined.

We commend the Committee for seeking ways of extending quality education to all handicapped children and will continue to support this effort. We hope our comments are received as they are intended, constructive suggestions from teachers who are concerned with providing the best possible education for all the children they are responsible for serving.

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AFT's Position on Placement

The following are some suggestions on Placement Procedures for Special Education Children so that they may receive an appropriate education in a least restrictive environment:

1. In addition to the child's parents, a multi-disciplinary team, made up, for example, of such personnel as regular and special education teachers working with the child, the program administrator, psychologist, school nurse and social worker, should decide.
2. Any teacher (regular) who will be involved in the child's program should be called to a meeting (during the regular school day or during inservice time) of the multidisciplinary team.
3. At that meeting teachers should receive all pertinent information regarding the student.
4. The entire team, including regular teachers, will then decide appropriate placement in a least restrictive environment.
5. The team, including the regular teachers, should agree upon a workable class size to assure appropriate attention to the needs of the exceptional child in the least restrictive setting. In no case should these exceed class size maximums set through state rules and regulations or by local contracts or guidelines.
6. Severely and profoundly impaired children should not be placed in regular classrooms. The class size of regular classrooms serving exceptional children should always be below the normal or maximum class size. Teachers will not be able to give the exceptional children the extra attention they need to cope in the regular classroom.
7. Aides must be provided for all special classes and they must be provided for the regular class when the exceptional child is present.
8. Placement evaluation: At the request of any teacher working with the child, placement re-evaluation must take place at a team meeting so that proper placement will occur.
9. Any teacher working with the child should be able to initiate a placement hearing on behalf of the child. Presently, it appears that only the parent or local education agency may do so.

Testimony before Senate Sub-Committee of the Handicapped
By Sunny Richman

Mr. Chairman and Members of the Committee: I will concentrate on the following areas: (1) Mainstreaming or Least Restrictive Placement, (2) The Individualized Educational Program and (3) Protection for School Employees, including due process, protection against malpractice, and protection against being held accountable for a projected plan of learning. No one in this universe can be held accountable for all of this. Local, state and national teacher bargaining agents must have in-put and representation from beginning to end in the implementation of this law, including at the State and local levels.

The first priority of this law is to educate those children who have not been receiving any education and the second priority is to educate those children who have the most restricting handicaps within each disability.

The American Federation of Teachers could not agree more with this concept. But the American Federation of Teachers could not disagree more with its implementation.

Who are these children we are talking about and what are we saying we should do for them, their parents, their teachers, and the other students in the schools and classrooms?

We are talking about:

1. Hydrocephalic children who are born with holes in their hearts, who turn blue periodically and have water on the brain, tubes in their heads which drain off the excess water in the brain. Many times the tube does not work and it must be reshunted. There are no nurses in the schools. Therefore, there must be a nurse provided for each and every school.
2. Children who have bones that are so brittle, if one touches them the wrong way, the bones could break.
3. Spinabifida is a condition in children who have separations in their spines and they are paralyzed from the waist down; these children are on crutches.
4. Children who are amputees and double amputees.
5. Cerebral palsied children, some of whom are severely impaired and others who are of normal intelligence.

a. They are orthopedically handicapped because of the effects on their motor perceptions, but not their brain.

6. Children who basically are taught toilet training, feeding, etc.

a. This means that there are charts where teachers must fill in such things as whether the child: sucks, drinks from bottle, eats finger food, blows nose, uses sanitary napkins, can button clothing, put on underwear, identify dirty/messy clothing, discriminate inedible substances, communicate illness/pain/injury, observe safety rules in streets, observe safety rules at play, is aware of danger of fire, heat, electricity. Another such chart is a Toilet Training Chart and the teacher must fill in such things as: wet, soiled, bowel movement, urination, nothing, indicate need to go, went willingly, took pants down, sat on toilet, cleaned self, flushed toilet.

7. Autistic children with whom you cannot communicate.

8. In some of these cases, if a teacher gets a child up to one year's mentality, that is the achievement of a life-time for the student and the teacher. I say child, but the age varies.

9. Mildly retarded children

(a) These children have been getting an education but if there are no provisions for smaller class size for these children, they will suffer grossly.

10. Learning Disabled

(a) In schools throughout the country, school authorities are phasing out RE (mildly retarded children) and adding LD classes, because of the stigma of RE and the new popular "faddism" of LD, even though LD specifically excludes children who are mildly retarded.

(b) LD includes children who have anti-social behavior—inability to learn which cannot be explained—difficulty in using language, spoken or written, imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

11. Emotionally Disturbed

(a) These children exhibit over a long period of time and to a marked degree an inability to learn which cannot be explained, an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings under normal circumstances; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes, mind you, SCHIZOPHRENIC and AUTISTIC children.

12. Even where handicapped classes are in existence, they are not grouped by handicap. Instead of having all autistic children in a class, etc., there are classes with one autistic child, one spinabifida, one cerebral palsied, and so on.

Please think of the small list I have given you. The children who are handicapped in most cases have multiple handicaps and may have several of the above examples, not just one. In most cases, the teachers have found that they are multiple handicapped.

MAINSTREAMING OR LEAST RESTRICTIVE PLACEMENT

One of the most difficult parts of the Bill is the mandating of Mainstreaming or Least Restrictive Placement because of the problems that have developed.

It means that the children mentioned above will be placed in regular schools, in classes that they may be self-contained in regular schools, or in regular classes in regular schools. Think of the ramifications.

It means that a child who has had a psychological examination processed is assigned to a regular school. The child can be an orthopedically handicapped child who would be placed in a regular high school in a wheelchair.

The law says that architectural barriers must be removed. The money must be provided immediately for these changes.

What about the safety factor of these children in a regular school? If a fire were to break out, how can a teacher get 32 ambulatory students plus a child in a wheelchair out of the building in an emergency situation when there are no ramps and the class is on the second and third floors as they are now? In cities across the country there are severely impaired children who are nonambulatory in regular schools. Aides must be hired to carry these non-ambulatory children, but they are not. The law should mandate this. We are thankful that there has not been a fire as there was in Chicago when there were so many perfectly normal children who lost their lives.

You are mandating that all of these children be placed in regular classrooms, unless it can be proved through a due process hearing that the child cannot be placed in a regular classroom. And even if the hearing officer's decision is that the child be placed in a special type class the parents under this law may refuse and the child must remain in a regular classroom.

There may be certain areas where mainstreaming can be accomplished with certain types of handicaps. But even here, there is nothing in the law that states how the regular teacher is supposed to get the training to handle these children, whom he/she never had to handle before nor was trained to handle.

The law really means that every teacher will have handicapped children in their classes. That means that every teacher must now write an Individualized Educational Program for each handicapped child in the teacher's room. Think of the time that this takes. The amount of time and attention that these handicapped children deserve will necessitate the hiring of additional personnel so that the regular children will not be short-changed. In essence, everyone will be affected, the normal children and the handicapped children. How hard we have worked to get special education service for these children in the form of aides, different types of therapists, psychological assistance and now you are saying, put these children into regular classrooms.

Staff development and in-service must be provided according to the law. It is the AFT's position that staff development and in-service should be provided with compensation or during released time during the day when a trained substitute can replace the regular teacher who is acquiring the staff development. In-service and staff development should be available and should only have to do with training and assistance—not evaluation. The method of evaluating in-service courses should be on personnel feed-back on whether students achieve. In other words, did what you learn in the in-service or staff development course help? In-service and staff development are not to be mechanisms to determine whether achievement of the student is successful. The American Federation of Teachers is in agreement and supports incentives for in-service and staff development, but does not want it to be mandatory. The bargaining agents of the teachers and school employees, again, must be included in the formation, development of in-service and staff development from the beginning to the end and that includes the evaluations methods, too.

INDIVIDUALIZED EDUCATION PROGRAM

The IEP will be a requirement of all teachers, whether special education teachers or regular teachers. But the special education and regular teachers must write a program of education for each individual child—not based on whatever the professional education the teacher has had, but as only one member of a team consisting of:

1. A representative of the local educational agency, other than the child's teacher, who is qualified to provide, or supervise the provision of special education, the child's parents, where appropriate the child, other individuals at the discretion of the parent or agency. (Federal Register, P. 56986)

(a) If the teacher has not had the background, where do all of these other people acquire the background? And who is held accountable for the achievement of the child? Not all of these other people but the teacher. And what does accountability mean? It means that the teacher can lose her/his job because achievement was not met.

Accountability, as the Federal Register states on P. 56986, is a justification for the type of educational placement which the child will have; a list of the individuals who are responsible for implementation of the individualized education program; and objective criteria, evaluation procedures and schedules for determining on at least an annual basis, whether the short-term instructional objectives are being achieved.

I ask you, does a doctor bring in someone from the Medical Society, the patient, the patient's relatives and other organizations and agencies that the patient desires when a diagnosis is given?

Does a lawyer allow the client to bring in the American Bar Association, the organizations or agencies that the client wishes when the lawyer is advising the client on what to do about legal problems? Does any profession have to undergo this type of unprofessionalism and harassment? No. I state that this is absolute harassment.

Placement should be first through psychological examination and recommendations. A diagnostic educational specialist should do educational testing and assessment of the child. Based on the results, it can be fairly well determined which teachers should be teaching the student.

The group of teachers which would be regular and special education teachers would determine what the program would be, along with all of the supportive personnel that would be needed for the child. The IEP states where the child is now. The AFT objects to projecting annual goals and short-term objectives. We are not fortune tellers—it is against the law to be crystal-ball predictors.

This type of assessment and program placement should be done at meetings on school time with specially trained substitutes, or after school time with appropriate monetary compensation. If there is too much released time, it will mean that teachers will be spending more time meeting and writing programs than teaching.

DUE PROCESS

Where is the protection for school employees? There must be protection against malpractice and accountability written into the law for all school employees.

A teacher must have the right to a due process hearing when the teacher feels placement is improper, or that a child has been in a regular classroom waiting for placement and the appropriate program to be implemented. The child is losing educational time and so are the other normal children in the classroom and the teacher is also suffering from teaching two classes at the same time.

Right now school employees must undergo due process hearings on the appropriate placement of the child in different states. In States where due process hearings have been set up under State laws, the hearings are called at 7 or 8 in the evening and last until 1 in the morning. The hearings are called by the parents. The teacher is the target on the stand. The child's parents are able to bring in an attorney and anyone else they want, friends, organizations, agencies, etc. The teacher is only permitted an attorney to be present to advise the teacher. The teacher's attorney is not allowed to cross-examine, ask questions, raise objections or open his/her mouth. And then, the hearing officer, who is chosen by the State—how no one really knows, has the power to mandate that a teacher go back to school for courses, perform chores and duties in violation of collective bargaining agreements. The teachers then have to pay for these courses, spend their own time going to these classes, and their whole lives are disrupted because no one stops to think that a teacher is a human being and must also have due process rights, representation and recourse to inhumane decisions. Now P.L. 94–142 gives this very right to every State.

There must be representation for teachers, attorneys for teachers who have the right to cross-examine, etc. The law must be amended so that school employees have the same safeguards as parents and children under P.L. 94–142.

There must be a guaranteed quality education for handicapped children and for normal children. There must be protection for regular teachers who must now teach handicapped children and for special education teachers of the handicapped.

I am afraid in the attempt to perform a valuable and essential service to the handicapped children of our country, a disservice to all of the children of the country, their parents, and the community at large has befallen our society.

Senator RANDOLPH. Jayne Shover, please.

Jayne, you remember the luncheon when Peter Falk was with us?

Miss SHOVER. I do indeed.

Senator RANDOLPH. That was a delightful day over in the Capitol. I remember that we had Pamela Jo Baker present.

Miss SHOVER. Pamela Jo, a West Virginia child.

Senator RANDOLPH. What has happened to Pamela?

Miss SHOVER. Pamela Jo Baker has completed her rehabilitation at the Wheeling Easter Seal Rehabilitation Center and is now enrolled in a residential school for the handicapped. There was difficulty in attaining placement in a public school in Pamela's town, for the teacher felt she could not cope with children with handicaps. The State of West Virginia is paying her tuition fees and expenses at the residential school in the Pittsburgh area.

Senator RANDOLPH. Have you had any reports from the parents?

Miss SHOVER. Yes. That was an interesting group of parents because the father was also handicapped having lost a foot in a preventable mowing accident, and he found that the experience gained from the travel with Pamela was very rewarding. They are doing well. The father had an advancement at his place of employment.

Senator RANDOLPH. Thank you. The motivation from Pamela Jo was a motivation for parents and a motivation for people generally.

Miss SHOVER. Yes, I think handicapped children do stimulate us and challenge us, and I think they may, as the previous person testifying said, present some unusual problems that those of us concerned about special education including teachers must face. But, I think any child is entitled to have programs and services that meet their needs.

Senator RANDOLPH. Thank you. We are happy to have you. You will state your name and the position you hold.

STATEMENT OF JAYNE SHOVER, EXECUTIVE DIRECTOR, THE NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS, ACCOMPANIED BY RHODA GELLMAN, STAFF DIRECTOR FOR LEGISLATIVE ACTIVITIES

Miss SHOVER. I am Jayne Shover, the executive director of the National Easter Seal Society for Crippled Children and Adults. The statement of my background, Senator, and my experience in the field is appended to this testimony.

Accompanying me on my left is Mrs. Rhoda Gellman, who is the staff director for legislative activities and was the deputy director, previous to that, for our program services of the National Easter Seal Society.

We want to commend you, Senator, and the members of your committee for calling these hearings on the series of laws which come under your jurisdiction which we think are very crucial to the welfare of our handicapped children and adults. And we appreciate very much the invitation to discuss some of our concerns with you about the manner in which they are being implemented, specifically the Education of the Handicapped Act, the Developmental Disabilities Act, Rehabilitation Act, the Wagner O'Day Act and, if time permits, perhaps we can make a few comments on the White House Conference for Handicapped Persons in which you had an important role.

As you know, Senator, because of our long years of experience, the Easter Seal Society has been a pioneer in the educational needs of handicapped children. We have had a long sustained interest in the needs of special education laws in many States. We have underwritten salaries of personnel for special education departments in order to motivate the States to take that program on.

We have operated special classes for the children. We have established programs for homebound children and preschool children and we have promoted extensively the recruitment and training of special education teachers.

In recent years we have been very active to support the Federal legislation to advance educational programs for handicapped children.

As a matter of fact, I guess we first started our testimony in 1945 when we were promoting a special education major department in the Federal Government.

Eleven years ago, Senator—time goes very fast—I came before a House committee on the handicapped and I stressed the inadequacy of the educational services to handicapped children which were, I thought then, the weakest link in the public school system and, to some degree, while we have made tremendous progresses, I think we still have a long way to go.

But it was very gratifying in reviewing this testimony which I had almost forgotten about, that most of the recommendations are now incorporated in the Education of the Handicapped Act.

Deadlines for compliance in order for States to receive Federal assistance are now established and we anticipate that substantial progress is going to be made in serving handicapped children as a result of this thoughtful and significant act.

While it does offer great promise, if it is to meet its objectives of providing a free and appropriate public education to all school age handicapped children there are some deficiencies which require correct, refinement, clarification and reconsideration.

Provisions requiring clarification. The interrelated provisions in the law on which we are commenting are terms defined in section 602(4): Related services; individualized education programs; and, free appropriate public education.

Related services include supportive services which are required to assist a handicapped child to benefit from special education. Many of these services, Senator, are of a medical or a rehabilitation nature physical, occupational and speech therapies, and pyschological services, et cetera.

In defining free appropriate public education, the law states that special education and related services must first be provided at public expense under public supervision and direction, (2) meet the standards of the State educational agency and, (3) that they are provided in conformity with the individualized educational program.

There is no question that the educational agency should set the standards and supervise direct special education programs. We do have some questions as to whether or not this same authority is applicable to medical and physical restoration services.

What is the role of the medical and rehabilitation personnel in supervising and directing medical services for diagnostic and evaluation purposes, physical therapy, occupational therapy, speech pathology, and so forth?

Does the education agency set standards for medical and rehabilitation services? If so, how do the standards relate to standards set by other State agencies, for example, the State crippled children's services and other licensing agencies?

We believe that the Congress considered these issues and from a reading of the legislative history, we do not believe that it intended educational personnel to supervise, direct, and set standards for the medical and rehabilitation care.

We recommend that this issue be studied and clarified if possible, in the legislation.

Under the term "individualized education program," the statute makers refer to "the present levels of educational performance"—"the specific educational services to be provided," and the "initiation and anticipated duration of such services" and of instructional objectives.

But, there is no reference made to the present level of physical impairment, to the rehabilitation services required, how long these services will take or to the objectives for the rehabilitation and for the physical restoration which we believe has, Senator, a paralleling value to education and they should go hand in hand with the development of the child.

We question if related services may be required to assist the handicapped child to benefit from special education. Why, for example, is the content of the individualized educational program restricted to instructional objectives and they don't find any mention made of the objectives to overcome the physical handicap?

Why are physicians and other rehabilitation personnel excluded from the disciplines which develop the individualized educational program for handicapped children? In other words, we believe that many medical specialists could bring things of value to this particular area of study for the children's benefit.

We recognize that the primary concern of the law is with education and that the related services are important, although secondary. Since the latter are included in the term of "free appropriate education" there should be some recognition of related service in the development of the individualized education program.

The proposed regulations issued December 30, 1976, do not deal with this question which we are raising. Therefore, we recommend that these issues be clarified in the final regulation.

Free appropriate public education. We notice that the State and Federal Education Act for Handicapped Children emphasized the right of handicapped children to a free appropriate education and, may we add, rightfully so.

Education has always been the public responsibility and made available at no cost to the parent. But there is nothing in the Federal statute which prohibits educational agencies from contracting with nonpublic agencies to provide special education and related services so long as they meet State standards.

We believe that it was Congress' intent to guarantee an education to those who are presently unserved or inadequately served and, in so doing, to provide the most appropriate service available.

The partnership which has existed between many public school systems and many community agencies serving the handicapped should be continued, we believe. Many of these community programs do have expertise that the public school system is trying and will develop in the future.

They represent an important alternative to the present school system. The programs they offer go beyond cognitive learning and they include a wide range of physical restoration services, parent education and involvement and treatment of psychological deficits frequently associated with physical disability.

It is unrealistic to believe that every school system, as they are currently organized and funded can always provide the same high quality comprehensive and integrated education programs and related services that are now available in many communities through private and nonprofit resources. We must recognize that it takes time for the public school system to develop this capacity and to offer effective programing of a quality which matches the quality and quantity of some of these community resources.

I would like to depart from the testimony and mention I have been in a number of States recently and I discovered some situations that concern us. For example, in a Western state, the public schools as a result of new State legislation notified an outstanding rehabilitation center providing rehabilitation for 114 children assigned them by city schools for whom the school carried the cost of education services and the center the costs of medical diagnostic and rehabilitation services, that all children would be transferred to the public schools within 2 weeks to begin the fall term. The center had contracts for the coming year for 26 therapists and other personnel.

The specialized related rehabilitation services for these children included 26 specialists and the public schools said they would only be able to take 5 persons out of the——

Senator RANDOLPH. Pardon me, Jayne, for interrupting. The Governor of West Virginia is to testify before the Energy and Natural Resources Committee on court legislation. He did ask if I would come up there as he began, so I will go. The staff members will work with you and Senator Stafford is coming.

Miss SHOVER. That's perfectly all right. That's almost a command performance.

Senator RANDOLPH. Thank you. Thank you, Mrs. Gellman.

Miss SHOVER. We appreciate the opportunity to present our views to you Senator and we thank you for your great service to the Nation's handicapped. Shall we continue, Pat.

Ms. FORSYTHE. Yes, please do.

Miss SHOVER. What I was saying, Pat, is the fact that the public schools' budget allowed for only five therapists and they took only one-fifth of the personnel to continue the primary rehabilitation service. The problems created by insufficient planning and the greatly reduced financing meant that the therapy services for these young children would be reduced to one-fifth of what they had been receiving.

This brought back broad concern on the part of the parents, concern on the part of the school system and concern on the part of all of us who are concerned with the welfare of children.

In many of these community centers, as you know, children are receiving intensive physical therapy, occupational therapy, speech therapy and by working with the teachers from the public schools they are making commendable progress.

If we take children and transfer them immediately and abruptly to public schools we are finding their physical restoration services are reduced sharply, we are creating not only for the child a great problem but we are creating a problem for the parents and all of us concerned.

I would like to say that in discussing mainstreaming and early childhood education, Dr. McDonald, who is a psychologist and a special speech pathologist consultant to several agencies in Pennsylvania states that:

The current effort to desegregate the handicapped and to get them into the mainstream of life is laudable; however, we must in our efforts to mainstream the handicapped child be sure that we are not reducing rather than enhancing the likelihood that the child will be able to cope effectively and make his achievements which will result in being an effective adult in society.

If desegregation is carried to the extremes of eliminating all centers, including those which were established to meet the very multitude of special needs of some of our handicapped children and many handicapped persons will be required to receive superficial and inadequate services provided by minimally trained and inexperienced persons. When the needs of children can be adequately met in a desegregated facility, and in the public schools, by all means, that is where the child should be enrolled.

We have talked with the Bureau of Education for the Handicapped and we are trying to work cooperatively with all visible elements in that city. We are also concerned about the difficulty in funding. In some places in Illinois we have inadequate funding for the special education programs and we are hoping that we could have additional years to achieve the mainstreaming so that the children will not lose the necessary services and regress in physical skills.

We believe we can do this through the cooperative efforts of the public schools and the community agencies and all of those who are concerned to the benefit of the children.

EARLY CHILDHOOD EDUCATION

The Education of the Handicapped Act did not include mandatory services for handicapped children 3 to 5. It did wisely establish incentive grants to States to encourage service to this 3- to 5-year-old vulnerable group, the majority of whom may have multiple handicaps. Preschool programs for children in the 3- to 5-year-old age group have proven to be invaluable when comprehensive and integrated programing is provided by experienced and well-trained staff.

Such programs are presently not available to the regular public school or kindergarten. Handicapped children have experimental deficits which can be decreased or eliminated frequently by early childhood programs. Their progress is most rapid when services are provided during their earlier years.

An added benefit is that they enhance the ability of handicapped children to enter the public school in later years with greater achievements and skills. We recommend that some coordination be given to including handicapped children in the 3- to 5-year special education program providing that the public schools and the community agencies are to work out the most desirable program for the benefit of the children. Children's needs must come first.

The national society supports the extension of the Education of the Handicapped Act as provided for in S. 725, and the discretionary programs we believe are essential elements in insuring the fulfillment of the purpose of this act.

Under developmental disabilities, the National Easter Seal Society once again would like to express our concern, since we are an agency serving all types of physically handicapped children with severe disabilities. Our concern we are expressing is about the narrow definition of developmental disabilities as originally stated in Public Law 91–517, and as subsequently amended in Public Law 94–103.

In essence, the National Society favors a more comprehensive definition which eliminates categorical groups and so we suggest the following definition, which is noncategorical: A developmentally disabled person is one with a physical or mental condition, originating before the age of 18, which is not responsive to treatment, which therefore can be expected to exist during the life of the individual and which leads or has led to functional deficits which substantially interfere with the individual's ability to acquire normal skills and knowledge, and to engage in competitive employment, or to manage his own affairs without assistance.

This definition makes no reference to a medically determined impairment or to a category of individuals. This is not an oversight on our part. It is only through an analysis of one's functioning ability that we can determine whether or not that person is disabled.

The Developmental Disabilities Act as presently written has the best intentions and is a powerful tool but the definition must be revised to cut through the wall which separates some of our handicapped citizens from others. The current definition does more than just separate the favored from the neglected. It confuses the physical condition with the functional consequences of the condition.

When I was working with a State agency in Illinois, the judge sent me over to see a family about a child for whom he had concern. I went in to talk with the child. When I asked him what his problem was, his bright eyes flashed and he said, "I don't have the right things."

In other words, he was concerned and unhappy that he could not have services that he needed and his family was concerned because he didn't have the appropriate diagnosis. Labeling of children is frequently one of the most disasterous things and prevents children from getting services which could be of great benefit to them.

We would, therefore, like to avoid talking about mental retardation, cerebral palsy, epilepsy, and such conditions as disabilities which have continued or can be expected to continue indefinitly. These conditions are not disabilities per se. They are conditions which lead to functional disabilities.

It is the ability to engage in certan activities highly valued by society which constitutes a disability. If one is unable to feed or dress one's self, or care for one's needs or engage in competitive employment, that constitutes a disability. Therefore, when we talk about a disability which will continue throughout a person's lifetime we should be very careful that we are not promoting a fatalistic attitude which suggest that nothing can be done or be helpful.

On the other hand, if we talk about a person's inability to do something then the person's ability to do something, then we set the stage for finding ways to make that person more effective.

Under the terminology of the act, unless an individual carries a designation and the label, and the diagnosis of cerebral palsy, epileptic, autistic, or mentally retarded, he is excluded from the services despite the fact that he is substantially handicapped and meets all the other criteria. Therefore, we would certainly appreciate consideration of these views we have expressed and urge a revision of the definition at this time.

I am not going to comment on the Rehabilitation Act except to say Easter Seals presented a detailed testimony before this committee in 1976 with regard to certain proposals that were then being considered. These same issues are of concern to us today and to all organizations involved with rehabilitation.

The RSA, in our opinion, is one of the agencies that most effectively utilizes the private sector and we were delighted and pleased when we realized when Mr. Califano was having his confirmation hearings in the Senate, that one of the senior Senators asked if the regard for the cooperation and for the partnership which has been carried out in the past years of the Government and the private agencies in the planning and delivering of services to the handicapped would continue under the new administration. It was gratifying to know that Califano said that they would indeed, that they would hope to increase and enhance the relationships of the voluntary agencies and do what they could to increase their ability to grow and that they needed the help of the voluntary agency.

We are looking forward to continuation of cooperative relationships in the rehabilitation service programs. There is another program we would like to comment on and that is the Javits-Wagner-O'Day program.

The program for other severely handicapped under the Javits-Wagner-O'Day Act is progressing very well. Because it is a fairly new program we thought that you would be interested in knowing that we see no compelling reasons for amendments to the legislation at this time.

Sheltered workshops employing the severely disabled working through the National Industries for the Severely Handicapped are, each year, acquiring new contracts with the Federal Government valued at over $4 million annually. This means the availability of 400 additional productive jobs each year for their clients.

At the present time, over 70 of the workshops in 32 States are providing Government products and services at a value of $14 million yearly, and thus employing nearly 1,400 severely handicapped people. The sheltered workshops providing these items obviously to do so in an environment that prepares their clients to go into competitive employment wherever possible as their aggregate placement rate is about double that for all the workshops in the United States.

The National Industries for the Severely Handicapped is continuing to expand their program nationally. We have opened field offices in five locations to better work directly with the sheltered workshops and have more direct contact because it is important that we see these programs, understand the capabilities of the clients to produce, and the workshops to deliver on the contracts which are awarded.

There has been some concern with the orderly growth of the Javits-Wagner-O'Day program through administrative appeal and court action by the Small Business Administration and some firms. But we believe that this can be worked out effectively and we think that to eliminate further use of these obstacles might be wise for the committee to consider the reinstatement of the congressional intent of the priority of the awards under the Javits-Wagner-O'Day Act in the spectrum of the Federal procurement program.

You have had a report on the White House Conference and I would just like to say that the planning for the White House Conference is progressing very well. Easter Seals in particular has given more than 1,000 hours of special help to the White House Conference in the review and editing of papers, and in helping in every way that we can because we envision it as one of the real landmarks in moving forward in the field of the handicapped.

We think it is important too that this particular Conference is developing plans for implementation, systematic plans for implementation which will make it possible, we believe, to more effectively follow up on the Conference and not feel that just the report goes onto the shelves and they mark 1977 as having the White House Conference.

But there will be action and there will be channels developed through which we can bring to this committee and others the important recommendations from this Conference. I want to express to you very much, to this committee, Senator Stafford and all of your members, Senator Randolph, who was here, for the fine leadership you have given to the field of the handicapped.

We in the Easter Seal Society are very grateful to you. We have been very appreciative of your leadership and we also want to comment very favorably on the staff that serves this committee. They have been outstanding in their work with all consultants and our volunteers.

With this kind of cooperation and help we think that there will be continued success in the field of services to handicapped children of this country.

Thank you so much for inviting Easter Seals to testify.

Senator STAFFORD [presiding]. Thank you very much, Miss Shover. Your kind words to the subcommittee are appreciated. I think we appreciate, as you do, that we do have an excellent staff on the subcommittee.

Miss SHOVER. Superior.

SENATOR STAFFORD. I highly agree. I am grateful to you, as the other members of the subcommittee are, for appearing here and I assure you members who are not here will read your testimony that you have given us this morning.

We have tried our best to reform our Senate so the Senators will have more time to attend their subcommittee meetings. We have already reduced in the area of 18 or 20 to 11 subcommittees, but as we start here and try to get everything going at once we are still suffering from multiple subcommittee commitments in the morning. That is why some of my colleagues aren't able to be here at the moment.

I would like to ask you just one question. As a onetime lawyer I could probably guess the answer but I am going to ask it anyway, and that is, how long do you think it will take the public school systems to develop the capacity to serve the handicapped children appropriately?

Miss SHOVER. One of our problems is the tax base for the schools. As you know probably, in many communities the property tax is not going to be adequate and is high in the State of Illinois and homeowners are saying they can go no higher.

So perhaps what we ought to do is look at the tax system to see if this is the source for the needed taxes for the public school. In some areas schools are being asked to do a great many things. I think this depends on the economy in the areas where the public schools are located. We have many problems affecting taxes including industry, energy, lack of water, et cetera.

I think most enlightened citizens believe that schools should have adequate budgets because education is so important. But I must say that I believe in this country, as you are so well aware of, some of our resources are diminishing and there are more demands than there are sometimes resources.

You on the committee are very well aware that there are priorities that must be established and I can only say that I hope those of us who have the concern and the responsibility for interpreting the needs of the handicapped can be effective in doing so.

Senator STAFFORD. Thank you very much on behalf of the subcommittee. We are very grateful to you for coming here and counseling with us this morning.

Miss SHOVER. As you know you have an outstanding program in the Vermont achievement program operated by Easter Seals and I know they will be very pleased to know you were here and we will see that they do know it.

Senator STAFFORD. Thank you very much, Ms. Shover. There will be a few questions which we will submit to you for the record.

Miss SHOVER. We will be very happy to try to help you in any way at any time.

Senator STAFFORD. Thank you very much.

[The prepared statement of Ms. Shover and material referred to follows:]

TESTIMONY OF

THE NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN & ADULTS

AT HEARINGS

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

By Miss Jayne Shover, Executive Director March 2, 1977

The National Easter Seal Society for Crippled Children & Adults

I am Jayne Shover, Executive Director of the National Easter Seal Society for Crippled Children and Adults. A statement of my background and experience in the field is appended to the testimony.

We commend Chairman Randolph and members of the Committee for calling this hearing and inviting public comment on a series of laws under your jurisdiction which are crucial to the welfare of handicapped children and adults. We appreciate the opportunity to discuss some of our concerns about the following issues or the manner in which they are being implemented:

Education of the Handicapped Act
Developmental Disabilities Act
Rehabilitation Act, and
Wagner O'Day Act

EDUCATION OF THE HANDICAPPED ACT

As pioneers in special education for physically handicapped children, we have had a long and sustained interest in promoting special education laws in many States, underwriting salaries of personnel in State education departments, operating special classes, establishing programs for homebound and preschool children and promoting the recruitment and training of special education teachers.

In recent years we have supported Federal legislation to advance education programs for handicapped children. 11 years ago, in addressing a House Ad Hoc Committee on the Handicapped, I stressed the inadequacy of services to handicapped children, still the weakest link in the public school system. Most of the recommendations are now incorporated in the Education of the Handicapped Act.

Implementation of this law is now proceeding. Deadlines for compliance in order for States to receive Federal assistance are established. We anticipate that substantial progress will be made in serving handicapped children as a result of this significant and thoughtfully formulated Act. While it offers great promise, if it is to meet its objective of providing a free and appropriate public education to all school age handicapped children, there are some deficiencies which require correction, refinement and clarification. These can be overcome through amendments to the law or by regulations.

Provisions Requiring Clarification

The interrelated provisions in the law on which we are commenting are terms defined in Section 602 (4):

"Related services"
"Individualized education program"
"Free appropriate public education"

"Related Services" include supportive services which are required to assist a handicapped child to benefit from special education. Many of these services are of a medical or rehabilitation nature such as medical services for diagnostic and evaluation purposes, physical, occupational and speech therapies, and psychological services.

In defining "free appropriate public education" the law states that "special education and related services" must:

1) be "provided at public expense under public supervision and direction ..."

2) "meet the standards of the State educational agency ..."

3) "are provided in conformity with the individualized education program ..."

These requirements pose problems and raise questions since they apply to both special education and related services. There is no question that the educational agency should set standards and supervise and direct special education programs but there are serious questions as to whether this same authority is applicable to medical and physical restoration services:

> What is the role of medical and rehabilitation personnel in supervising and directing medical services for diagnostic and evaluation purposes, physical therapy, occupational therapy, speech pathology and audiology and psychological services?
>
> Does the educational agency set standards for medical and rehabilitation services?
>
> If so, how do the standards relate to standards set by other State agencies, for example, the Crippled Children's Services and licensing agencies?

We are certain that Congress considered these issues and from a reading of the legislative history, we do not believe it intended educational personnel to supervise and direct and to set standards for medical and rehabilitation care.

We recommend this issue be clarified in the law or regulations.

"Individualized Education Program"

Under the term "individualized education program", the statute makes reference to "the present levels of educational performance", "the specific educational services to be provided", the "initiation and anticipated duration of such services" and of instructional objectives. No reference is made to the present level of physical impairment, to the rehabilitation services required, to the duration of such services, or to the rehabilitation objectives.

> We question that if related services may be required to assist a handicapped child to benefit from special education, why for example is the content of the individualized educational program restricted to instructional objectives and no mention made of objectives to overcome physical impairments?
>
> Why are physicians and other rehabilitation personnel excluded from the disciplines which develop the individualized education program for the handicapped child?

We recognize that the primary concern of the law is with education and that related services, though important, are secondary. Since the latter are included in the term "free appropriate education" there should be recognition of related services in the development of the individualized education program. The proposed regulations issued December 30, 1976 do not deal with the questions we are raising.

We strongly recommend that these issues be clarified in the final regulations or by amendments to the law.

"Free Appropriate Public Education"

We note that the State and the Federal education acts for handicapped children emphasize the right of handicapped children to a free appropriate education, and, may we add, rightly so. Education has always been a public responsibility and made available at no cost to the parent, but there is nothing in the Federal statute which prohibits educational agencies from contracting with non public agencies to provide special education and related services so long as they meet State standards. We believe it was Congress's intention to guarantee an education to those who are presently unserved or inadequately served and in doing so, to provide the most appropriate service available. The partnership which has existed between many public school systems and community agencies serving the handicapped should be continued. Many of these community programs have the expertise that the public school system will have to develop. They represent and important alternative to the public school system. The programs they offer go beyond cognitive learning and include a wide range of physical restoration services, parent education and involvement and treatment of psychological deficits frequently associated with physical disability.

It is unrealistic to believe that the public school system, as currently organized, can provide the same high quality comprehensive and integrated education program and related services that are now available in many communities through private and non-profit resources. It will take time for the public school system to develop this capacity and to offer effective programming of a quality which matches the caliber of some of these resources.

In addition, there will always be situations, for example, for multi-handicapped children, in which an appropriate education will be available only through programs operated outside of the public school system. Children should be able to take advantage of the best services available to them whether under the aegis of the public school system or not. Yet in practice, handicapped children are being placed in public school settings which do not provide optimal services.

Mainstreaming and Early Childhood Education

I would like to discuss briefly two related issues which are of concern to parents and professionals - mainstreaming and early childhood education. In a presentation at the National Easter Seal Society Convention in November, 1976, Eugene McDonald, a psychologist and consultant to the Pennsylvania Easter Seal Society, pointed out that "the current effort to desegregate the handicapped and to get them into the mainstream of life is laudable; however, we must in our efforts to 'mainstream' the handicapped child be sure that we are not reducing rather than enhancing the likelihood that the child will be able to cope effectively as an adult in society."

"If desegregation is carried to the extremes of eliminating all centers including those which were established to meet special needs of handicapped persons, many handicapped persons will receive superficial services provided by minimally trained and inexperienced persons ...". "When the needs of children" he added, "can be adequately met in a desegregated facility, by all means that is where the child should be enrolled".

Early Childhood Education

We regret that the Education of the Handicapped Act did not include mandatory services for handicapped children 3 through 5 years of age. Instead, it established incentive grants to States to encourage service to this venerable group, the majority of whom have multiple handicaps. Preschool programs for children in the 3 to 5 years old age group have proved to be invaluable when comprehensive and integrated programming is provided by experienced and well trained staff. Such programs presently are not available through the regular public nursery school or kindergarten.

Handicapped children have experiential deficits which can be decreased or eliminated by early childhood education, socialization and rehabilitation programs. Their progress is most rapid when such services are provided during their early years. An added benefit is that they enhance the ability of handicapped children to enter the regular public school system.

We concur with the views of Senators Stafford, Javits, Kennedy, Schweiker and Hathaway. They stated: "To delay the delivery of those services because of restrictions of State law or practice is neither reasonable nor wise". They disagreed with the action taken by the full Committee when it dropped the mandate for 3 to 5 year olds during consideration of S.6". 1)

We recommend the mandatory inclusion of all handicapped children ages 3 to 5 in special education programs.

EXTENSION OF DISCRETIONARY PROGRAMS

National Society supports the extension of the Education of the Handicapped Act as provided for in S. 725. The discretionary programs are essential elements in ensuring fulfillment of the purpose of the Act.

DEVELOPMENTAL DISABILITIES

Change in Definition

The National Easter Seal Society for Crippled Children and Adults is an organization serving all types of physically handicapped children with severe disabilities. We have been concerned with the narrow definition of developmental disabilities as originally stated in Public Law 91-517 and as subsequently amended in Public Law 94-103. In essence the National Society favors a more comprehensive definition which eliminates categorical groups, and we suggest the following definition:

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1) Education of the Handicapped Act as amended through December 31, 1975. Prepared by the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, U.S. Senate, August 1976, page 270.

> "A developmentally disabled person is one with a physical or mental condition, originating before age 18 which is not responsive to treatment, which therefore can be expected to exist during the life of the individual, and which leads (or has led) to functional deficits which substantially interefere with the individual's ability to acquire normal skills and knowledge, to engage in competitive employment, or to manage his own affairs without assistance".

This definition makes no reference to a medically determined impairment or to a category of individuals. It is not an oversight on our part. It is only through an analysis of one's functioning ability that we can determine whether or not a person is disabled.

The Developmental Disabilities Act as presently written has the best of intentions and is a powerful tool but the definition must be revised to cut through the wall which separates some of our handicapped citizens from others. The current definition does more than just separate the favored from the neglected. It confuses the physical condition with the functional consequences of the condition.

We would like to avoid talking about mental retardation, cerebral palsy, epilepsy, and such conditions as disabilities which have "continued or can be expected to continue indefinitely". These conditions are not disabilities per se. They are conditions which lead to functional disabilities. It is the inability to engage in certain activities highly valued by our society which constitutes the disability. For example, not being able to dress oneself, to talk, to walk, to care for one's needs, or to engage in competitive employment, constitutes the disability. The condition which is responsible is essentially untreatable with today's knowledge, but the disability itself is subject to remediation and treatment. When we talk about a disability which will continue throughout a person's life, we are promoting a fatalistic attitude which suggests that nothing we can do will be of any help. On the other hand, if we talk about a person's inability to do something, then we have set the stage properly for finding ways to make that person more effective.

Under the terminology in the Act, unless an individual carries the designation of cerebral palsied, epileptic, autistic, or mentally retarded, he is excluded from services despite the fact that he is substantially handicapped and meets the other criteria stated in the definition.

We would appreciate consideration of our views and urge a revision of the definition at this time.

REHABILITATION ACT OF 1973

The National Easter Seal Society for Crippled Children and Adults presented testimony before this Committee on February 23, 1976 on the Rehabilitation Act with regard to certain proposals which the Administration at that time was considering. These same issues are of concern to us today and to all organizations involved with rehabilitation services to the disabled. I am referring to proposals for block grants, allied services, State consolidation and reorganization and experiments with multi-service centers. We are again calling these proposals to your attention as we believe that some of them may again be highlighted during the 95th Congress.

All of these proposals have common goals and objectives which relate to administrative and fiscal flexibility and decategorization of programs. In each case the ultimate goal is described as improving the system of delivering services. We question whether in practice they would have a positive effect or whether they are simply management and budget tools whose effect on service delivery is either neutral, negative or difficult to determine.

General Analysis of Major Trends

In general, block grants, the Allied Services Bill and the efforts of many States at consolidation and reorganization have as their major effect, fiscal and administrative flexibility for the Federal and State governments. It is asserted that improved service delivery will also result. Block grants, however, do not attempt to effect service delivery. To do so would be to impose a condition on States which would be inconsistent with the revenue sharing approach of block grants.

The Allied Services Act and some State experiments in consolidation and reorganization include provisions regarding the structure of administrative units responsible for service delivery and are therefore linked somewhat more closely to the delivery of care than block grants.

The Office of Economic Opportunity multi-service center experiments of the middle and late 60's and the Department of Health, Education, and Welfare's integrated services projects of the early 70's both aimed at affecting the actual delivery of services in the health, social and rehabilitation services areas. The objective of those projects was also to make the administrative system more flexible but it was flexibility for actual service agencies to improve actual service delivery in most cases.

Decategorization of programs has also been a stated objective. Decategorization must be closely examined even when it is related directly to service delivery as in the case of the multi-service centers and integrated services projects. We do not have data nor do we think any exist to show that these projects have improved service delivery.

It is our contention that improved service delivery achieved by decategorization, or administrative and fiscal flexibility, must be measured in three ways:

1) Whether accessibility to needed services is expanded, for example, through either liberalized eligibility for services or through projects bringing services closer to consumers;

2) Whether the types of services available to meet consumers needs are made more comprehensive;

3) Whether the volume of services provided is expanded through the provision of greater resources.

We believe that these major proposals and/or projects - block grants, allied services, State consolidation and reorganization and multi-service or integrated services experiments - have produced no information by which to determine if they would meet these tests. Our reservations are based not on research data but on an analysis of the theory of these programs as to whether they are reasonably likely to improve service delivery to the disabled.

Further elaboration on these comments can be made available to you if you so desire.

WAGNER O'DAY PROGRAM

The program for "other severely handicapped" under the Javits Wagner O'Day Act is progressing well and we see no compelling reason for amendment to the legislation at this time. Sheltered workshops employing the severely disabled working through National Industries for the Severely Handicapped are each year acquiring new contracts with the Federal government valued at over $4 million annually. This means the availability of 400 additional productive jobs each year for their clients. At the present time over 70 of these workshops, in 32 States, are providing the government accommodations and services worth $14 million yearly, and thus employing nearly 1400 severely handicapped people. The sheltered workshops providing these items obviously do so in an environment that prepares their clients for competitive employment, as their aggregate placement rate is about double that for all workshops in the United States.

NISH continues to expand their program nationally, and has opened field office operations in five locations to better work directly with the sheltered workshop community and local branches of Federal procuring agencies.

There has, however, been some interference with the orderly growth of the Javits Wagner O'Day program through administrative appeal and court action by the Small Business Administration and some commercial firms. To eliminate further use of these obstacles we urge the restatement of Congressional intent of the priority of awards under the Javits Wagner O'Day Act in the spectrum of Federal procurement programs.

The National Society appreciate the opportunity to present its views and to assure you of our whole-hearted cooperation in supporting your efforts to improve services to the handicapped.

Easter Seals

BIOGRAPHICAL DATA Miss Jayne Shover

Jayne Shover, internationally known authority in the field of rehabilitation, is the first woman to hold the post of executive director of the National Easter Seal Society for Crippled Children and Adults.

Former associate executive director in the Society's Chicago-based headquarters, Miss Shover has held various administrative positions with the Society for more than two decades specializing in program development and agency relationships. The National Easter Seal Society is the oldest and largest voluntary health agency providing services to the handicapped.

Miss Shover's additional professional experience includes supervisory and consulting positions in speech, rehabilitation, psychology and special education for public schools in Indiana and Wisconsin. She has provided intensive services to handicapped children and adults in inner-cities in the East Chicago and Indiana Harbor, Indiana areas.

Miss Shover received her bachelor's and master's degrees from the University of Iowa in the field of speech pathology, clinical psychology and special education. After postgraduate work in Europe, she served on the faculty of Purdue University and later at the University of Iowa. She received extensive training in social work and community organization at the University of Chicago and was a medical research fellow at the University of Wisconsin.

Miss Shover is a fellow of the American Public Health Association, and the American Speech and Hearing Association. She is a member of the American Psychological Association, the National Paraplegia Foundation's Board of Directors, the newly appointed Chairman of the Commission on Organization and Administration of Rehabilitation of Rehabilitation International and serves on that organization's Council, the Board of Directors of Rehabilitation International USA, the Executive Committee of the President's Committee on Employment of the Handicapped, the Board of Directors of the National Industries for the Severely Handicapped and has served on the Board of the Council for Exceptional Children. Miss Shover has also been appointed to the National Planning and Advisory Council to the White House Conference on Handicapped Individuals.

Miss Shover was appointed by the National Health Council in April, 1969, to represent the voluntary health agency members on the President's Voluntary Action Program. She served as consultant for health and rehabilitation and was the coordinator for the National Center for Voluntary Action's Task Force of its successful campaign against German measles (Rubella)--one of the greatest cripplers of children--a program in which more than five million volunteers were used.

Serving as secretary and coordinator, Miss Shover helped plan the 1960 Eighth World Congress, the largest meeting ever held in the United States on rehabilitation of the handicapped attended by more than 4,000 delegates from 70 foreign countries.

Page 3 - Miss Jayne Shover

Miss Shover serves on the National Citizens Committee for Research in Neurological Disorders and stroke and on the U.S. Department of Labor's Advisory Committee for Sheltered Workshops. She was selected as one of the three national advisors of former HEW Secretary Gardner's Task Force on the Handicapped and has served as the spokesman for voluntary agencies in hearings before the President's Task Force on the Handicapped. She has also served with other public, private and professional organizations.

In 1972, Miss Shover received the Mary E. Switzer Memorial Award for Outstanding Service from the Greater New Haven Easter Seal Society and Goodwill Industries Rehabilitation Center, and in 1973, was the first recipient of the Marion Mill Preminger Award--the annual memorial medallion of the People-to-People Committee for the Handicapped in recognition of her leadership and service in the rehabilitation field. In 1975, Miss Shover received the Commissioner's Award for outstanding leadership and meritorious service to the Rehabilitation Service Administration and to the rehabilitation community in maintaining a productive partnership to provide effective programs for the handicapped.

Miss Shover is also a member of Phi Theta Kappa, Theta Alpha Epsilon, Psi Chi and Phi Delta Gamma honorary fraternities and Pi Beta Phi.

QUESTIONS SUBMITTED BY SENATOR STAFFORD TO JAYNE SHOVER, EXECUTIVE DIRECTOR, THE NATIONAL EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS WITH RESPONSES

Question. The intent of the "least restrictive environment" concept is to place the child in an environment where he or she will flourish. Do you have recommendations to insure that this intent will be realized?

Answer. *Recommendations:*

1. Close monitoring at all levels to insure implementation of Public Law 94–142.

2. Provision of orientation and technical training for public school teachers concerning the needs and abilities of handicapped children.

3. That the state advisory panel membership include representatives of private agencies serving the handicapped who are experienced in providing special education for this population.

4. Inclusion of experienced educators and therapists from private agencies serving the handicapped on local placement and review committees.

5. That progress reports be submitted to the review team monthly for the first six months of classroom attendance for severely disabled children.

6. Alternative placements in a continuum should each afford the potential and promise of the most appropriate, effective and total child development program for each child including motor and psychosocial goals as well as cognitive.

Question. How long do you think it will take the public school system to develop the capacity to serve handicapped children appropriately?

Answer. As testified to by Miss Jayne Shover, Executive Director, the National Easter Seal Society for Crippled Children and Adults on March 2, 1977, accomplishment of the goal of public education for all handicapped children will be influenced by the ability of the tax base to support the costs.

In addition we would like to add that accomplishment will be facilitated by recognition that the "capacity" of public school systems is greatly expanded when the private sector can be included in placement and program decisions.

The cost of comprehensive special education and the multiplicity of specialists required to achieve that goal demand that the most capable community resources be utilized. Private agencies such as the Easter Seal Society provide such programs in many states and have worked cooperatively with the public schools to achieve education for the handicapped. These schools continue to provide the least restrictive environment and the most appropriate program for severely handicapped children and, in some communities, for the moderately and mildly handicapped.

Senator STAFFORD. The Chair will now invite Mr. Hyman Gardsbane, who is with the Association of Children with Learning Disabilities Advisory Board in Shreveport, La.

Due to the constraints of time, Mr. Gardsbane, the Chair will offer to put your entire statement verbatim, in the record and invite you to proceed extemporaneously from it, if that is the way you are willing to proceed.

STATEMENT OF DR. HYMAN GARDSBANE, MEMBER, PROFESSIONAL ADVISORY BOARD OF THE ASSOCIATION OF CHILDREN WITH LEARNING DISABILITIES, SHREVEPORT, LA.

Dr. GARDSANE. I will be happy to summarize.

I am Hyman Gardsbane, a member of the Professional Advisory Board of the Association for Children With Learning Disabilities.

I am sorry that the chairperson of ACLD's Professional Advisory Board, Dr. Sylvia Richardson, or our past chairpersons Dr. Samuel Kirk and Dr. Jeanne McCarthy are unable to be here today. However, the advisory board believes it is appropriate for me to testify since I have been involved with title VI–G for a long time.

I was on the ACLD board of directors during the conceptualization phase of the bill. I helped with ACLD's legislative efforts in 1969 and 1970. I was president of ACLD when 91–230 was signed into law, and for every year, with the exception of one, I have been a proposal reviewer of title VI–G projects.

The Professional Advisory Board of ACLD strongly supports continuation of funding of learning disabled children under part G. Historically, when VI–G was conceptualized it was felt that a separate authority was needed at that time for the newly emerging field of learning disabilities.

Discretionary funding under the separate authority would give the flexibility necessary to provide an interrelated program of research, training and service in learning disabilities and also would be the best approach to give visibility to this new field.

Title VI–G authorizes three types of programs: one, research and related activities, surveys and demonstrations relating to the education of children with learning disabilities; two, professional or advanced training of teachers, supervisors and teachers of such teachers; and, three, model centers designed to improve the education of children with learning disabilities.

The Bureau of Education for the Handicapped has funded model centers. We are satisfied that the model centers have met the intent of that part of the legislation and the recent evaluation study of the centers, which was funded by the Office of Education has attested to their value.

In looking at current needs, we see that the development stage of the model centers and the technical assistance project which serves the model centers, the national learning disabilities assistance project, are at the point where they can now become more effective in their outreach program.

The national learning disabilities assistance project has an excellent, basic information system. With its ability for information retrieval and with the other services it provides, the technical assistance project has done much to develop a coherent network of centers.

Strong emphasis now needs to be placed on diffusion and dissemination. We fear that much valuable knowledge can be lost by inopportune discontinuation of discretionary funding.

If 94–142 is going to be effective with children with specific learning disabilities the dissemination of knowledge and materials gained and developed by the model centers must be expanded.

There is another major need. The Professional Advisory Board of ACLD, several years ago, recommended that since the demonstration aspect of the law had been operationalized, the other components of research and training should be combined with the service component into a full three-pronged approach in single regional facilities each with a technical assistance and problem solving component to serve the schools in its region.

Specifically, the Professional Advisory Board of ACLD has recommended to ACLD and to the BEH that funding of small regional centers for learning disabilities be made as a cooperative effort between a university, a public school system and a State education agency.

The full recommendation of the advisory board concerning the facility is in my prepared statement so I will not repeat it here.

The need for emphasis on the research and training components is verified by the issues confronting the field. Some of these issues are eligibility criteria, prevalence, efficacy of remedial procedures, early identification and mainstreaming. We feel that the need for comprehensive coordinated activities directed toward resolving some of the critical needs and issues is urgent.

It is also untimely to eliminate part G because of the funding history, especially the first 3 or 4 years. Because of the low funding it has taken more time to accomplish what was originally intended. For example, only $1 million was appropriated out of an authorization of $20 million the first year of funding and only $1.25 million the second year out of an authorization of $31 million.

In summary, the Professional Advisory Board of ACLD is not suggesting that part G be continued for a long time, but we are expressing our concerns over the possibility of eliminating part G without allowing the presently funded programs to continue to the end of their project periods so that they may provide technical assistance and dissemination to the State education agencies and local education agencies during the start up years of 94-142.

Senator STAFFORD. Thank you very much, Mr. Gardsbane for coming here and helping this subcommittee as we are looking forward to programs to help the handicapped. On behalf of all of the members of the subcommittee whom I think you heard me explain were all here but all at other committees, I can assure you we will all read your printed statement in the course of our deliberations. We are very grateful to you for making the time available to help us.

Dr. GARDSBANE. Thank you.

[The prepared statement of Dr. Gardsbane follows:]

STATEMENT OF

DR. HYMAN GARDSBANE

REPRESENTING

THE PROFESSIONAL ADVISORY BOARD

OF THE

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES

TO THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

ON

SENATE BILL 725

March 2, 1977

My name is Hyman Gardsbane. I have been associated with the Association for Children with Learning Disabilities since 1967, serving as President, as a member of the Executive Board, and currently as a member of the Professional Advisory Board. In 1969 I was pleased to appear before the Subcommittee on Education of the Committee on Education and Public Welfare of the U. S. Senate in support of the Children with Learning Disabilities Act of 1969, then S 1190. At the time 91-230 was inacted into law on April 13, 1970, I was the President of the Association for Children with Learning Disabilities and with the exception of one year, I have served as a proposal reviewer of VI-G projects from the beginning. It is in my role as a member of the Professional Advisory Board of the Association for Children with Learning Disabilities that I am submitting testimony this morning. I am bringing to you the professional expertise of the members of the Professional Advisory Board of ACLD. The Professional Advisory Board is composed of such professionals as Sylvia Richardson, Samuel Kirk, Jeanne McCarthy, Doris Johnson, Pearl Rosser, Thomas Gilhool, and other representatives of the medical, the educational, and the legal professions concerned with children with learning disabilities.

The purpose of the Professional Advisory Board is to give advice and counsel to the Association for Children with Learning Disabilities, primarily a group of concerned parents of children with specific learning disabilities. The professional Advisory Board of ACLD wishes to testify in support of continuation of funding for Learning Disabled Children, Part G of the Education for the Handicapped Act, which has been eliminated in Senate Bill 725, submitted on February 11 of this year. The Professional Advisory Board's statement will focus on the following points:

1. The continued need for discretionary funds to serve children with specific learning disabilities,
2. The need to redirect funding from the current open funding with emphasis on model centers and demonstration programs in each state to the generation of new knowledge to undergird practices in the field of learning disabilities;
3. The need for a combined facility which would combine all three programs of VI-G to develop new ideas, thoroughly test them with children, train teachers to utilize effective methods, and demonstrate cost-effective delivery systems, all under one facility.

Historical Elements Which Impact on Current Decisions

Eight years ago Ralph Yarborough of Texas introduced S 1190, the Children with Learning Disabilities Act of 1969. A similar bill was introduced in the House of Representatives by Roman Pucinski of Chicago. At the same time, Representatives Perkins, Dent, Daniels, Brademas, O'Hara, Carey, Hathaway, Mink, Scheuer, Meeds, Gaydos, Stokes, Clay, Ayres, Reid, Eshleman, and Steiger introduced an identical bill into the House. Companion bills were offered by Representatives Hawkins and Quie. These bills proposed to amend Title VI of the Elementary and Secondary Education Act by creating a new section to specifically provide authority to the Office of Education to establish special programs for children with learning disabilities. The National Advisory Committee on Handicapped Children had recommended that federal assistance be established for learning disabilities programs to bring them up to a level commensurate with other disability programs.

At that time Senator Yarborough specifically pointed out that "we can make this possible by providing support for carrying out a program of research and related activities in the area of education of children with learning disabilities.

We must use this research as a basis for programs of professional and advanced training for people who are preparing to teach these children, and we must develop model centers for the evaluation and education of our children. These centers in turn will assist our state and local educational agencies in making more programs available to children with learning disabilities".

The Senate hearings on S 1190 further pointed out the need to provide visibility for and bring new knowledge to the field of learning disabilities. Discretionary funding under separate authority which could provide a three-pronged interrelated program of research, training, and service was felt to be the best approach.

When the "Children with Learning Disabilities Act of 1969" was introduced into the Senate, the section by section analysis was also printed in the Congressional Record. Several sections of the analysis are pertinent to the discussion today. Subsection A of Section 611 authorizes the Commissioner of Education "to make grants to institutions of higher education, state education agencies, local education agencies and other public and private non-profit educational and research agencies and organizations and to make contracts with any of such agencies and organizations and with private profit-making organizations in order to carry out special programs for children with learning disabilities. Three types of such programs are authorized:

(1) He may make grants and contracts to support projects for research and related activities, surveys and demonstrations relating to the education of children with learning disabilities.

(2) He may make grants and contracts to provide professional or advanced training to teachers of children with learning disabilities and to education personnel who are preparing to teach such children and to provide such training to personnel who are supervisors and teachers of such teachers or who are preparing to become supervisors and teachers of such teachers.

(3) He may make grants and contracts to assist in the establishment and operations of model centers designed to improve the education of children with learning disabilities ......".

The analysis continues to emphasize that the projects will be designed to promote the adoption of new or improved educational ideas, practices and techniques, and that the Commissioner is required to seek "to achieve an equitable, geographical distribution throughout the nation of programs to train educational personnel to meet the needs of children with learning disabilities and of personnel trained to meet the needs of such children".

Current Needs

Since the introduction and passage of the Children with Learning Disabilities Act of 1969, which was subsequently incorporated into the ESEA amendments of 1970, model demonstration centers have been established in almost all of the states. The recent Study of Special Programs for Children with Specific Learning Disabilities (OE CONTRACT No. 300-76-0059) which evaluated the model centers under contract in 1975 and 1976 has given specific testimony to the value of the model centers in developing services to learning disabled children. There are a number of exemplary model centers and among these are the successful kindergarten to grade three program in Connecticut, the Pennsylvania project which has developed excellent materials, the inservice training programs of the Nebraska and California projects, and the secondary project in Oklahoma. The Oklahoma Child Service Demonstration Center became the first Title VI-G project to be validated by the Joint Dissemination Review Panel of the U. S. Office of Education and the National Institute of Education. Three other VI-G projects, Connecticut, New Mexico, and Pennsylvania are in the process of being validated with four more eligible and will be validated soon. The National Learning Disabilities Assistance Project, the technical assistance project funded under VI-G to service the model centers has developed a basic information system for information retrieval and has done much to bring about a cohesiveness of effort. There is no question that the intent of the legislation to establish and operate model centers is being thoroughly met. But with the implementation of the Public Law 94-142 drawing near, it becomes imperative to look at the current needs which have not yet been filled by the Title VI-G projects.

First, the VI-G projects are not strong in their outreach programs. There is a fading out in the diffusion and dissemination phase. At this time when there should be concentration on the provision of technical assistance and dissemination to State Departments of Education and local education agencies, S 725 eliminates Title VI-G.

Second, the Professional Advisory Board has felt for the past several years that it was time for the Office of Education to turn attention to the other types of programs which have been authorized in Public Law 91-230. Although the demonstration aspect of the Law has been operationalized, the components addressing integrated programs of research, training, and service have not been utilized under this authoriy.

Several years ago the Professional Advisory Board of ACLD recommended that ACLD request the Bureau of Education for the Handicapped to authorize the implementation of the research and training components of the Children with Learning Disabilities Act, Title VI-G. Specifically the Professional Advisory Board has recommended to ACLD and to the Bureau of Education for the Handicapped that funding under Title VI-G be directed towards the establishment of small regional centers for learning disabilities as a cooperative project between a university, a school system and the state department. The centers would consist of four units:

(1) A clinical service unit which would operate jointly with university personnel and school personnel as a service unit.

(2) A training unit for the preparation of specialist personnel in diagnostic and remedial work operated by the university using the clinical service center as the practicum facility.

(3) A research component which would concentrate on insitu research primarily for the improvement of diagnostic assessment, evalution, and remediation.

(4) A field study unit with a problem solving component which would concentrate on technical assistance to local school districts in the region and in solving problems faced by service units in clinics and schools.

Current Issues in the Field of Learning Disabilities

The need for emphasis on the components of Title VI-G which have not been heavily implemented, i.e., research and related activities, and training programs distributed geographically, is attested to by the nature of the issues now confronting the field. Some of these issues, as the members of Congress are well aware, stem from the problems of defining the population of children who meet eligibility criteria as learning disabled children. Public law 94-142 requires the Commissioner of Education to develop regulations which establish specific criteria for determining a specific learning disability and diagnostic procedures. In the Federal Register, Volume 41, No. 230, November 29, 1976, the Office of Education responded by pointing out the limitations on establishing specific criteria, and among the points made were:

"1. The state of the art in the field of specific learning disabilities and its associated fields is such that it is not presently possible to specify exactly all of the components of each specific learning disability .....

2. There exists no hard research data collected on a large enough sample in order to state, with certainty, which are the common characteristics of all learning disabled children.
3. There are several theories as to what causes children to have specific learning disabilities.
4. There appear to be no generally accepted diagnostic instruments presently available which can be singly and appropriately utilized with all children with a specific learning disability ......".

Other issues involve prevalence, efficacy of remedial procedures, early identification, mainstreaming, the relationship between learning disabilities and juvenile delinquency, etc. Until some of these critical issues can be researched in a scholarly way the Professional Advisory Board of ACLD feels that it is untimely for the Congress to withdraw discretionary funds from this critical area of special education.

Recommendations

1. The Professional Advisory Board of the Association for Children with Learning Disabilities strongly recommends to Congress that Title VI-G be continued in the Education of the Handicapped Children Act as it is incorporated into the Education of the Handicapped Amendments of 1977.

2. It is recognized that services to learning disabled children will be provided in some degree through Public Law 94-142. However, because of the newness of the field and the significant issues which need resolution, it is urgently recommended that model centers be continued for a period of time in order to provide technical assistance and demonstration centers to State Departments of Education and local education agencies as funds begin to become available under PL 94-142. As service under 94-142 becomes stablized the need for model centers will decrease.

3. It is strongly recommended that the two components of Title VI-G, i.e., research and related activities, surveys and demonstrations, and training programs be emphasized in order to integrate research, training, and service into a single model center. The funding level of these comprehensive centers will need to be increased considerably if all three functions are going to take place within a single center. It is recommended that appropriations be made to support ten to fifteen such integrated learning disability centers on a state and/or regional basis at approximately $250,000 each.

In summary, the Professional Advisory Board of the Association for Children with Learning Disabilities feels that it would be a tragic mistake for Congress to discontinue discretionary funding to learning disabled children at this point in time. The need for comprehensive, coordinated activities aimed at resolution of some of the critical issues facing the field is urgent and cannot be met responsibly without a continuation of funding under VI-G programs.

Senator STAFFORD. The Chair will now invite Mr. Eli Tash, president of the Association of Children with Learning Disabilities, Pittsburgh, Pa., to take the stand.

As I said to Dr. Gardsbane, we will place your entire statement in the record, although it is fairly short, you may prefer to proceed using it, whatever you wish.

STATEMENT OF ELI TASH, PRESIDENT, NATIONAL ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES, PITTSBURGH, PA.

Mr. TASH. If you will put my report in the record, I would like to talk extemporaneously.

Senator STAFFORD. Without objection, your statement will be made a part of the record.

Mr. TASH. I would like to put on the record though that my residence is in Milwaukee, Wis. I am an amateur volunteer parent with a son who has learning disabilities. As all of us in the ACLD movement, we parents speak differently from the professionals you have heard up till now.

We parents have a unique point of view which is concerned with the welfare of our children. I would also like to point out that we are deeply aware of what Congress has done for handicapped children and specifically for children with learning disabilities and what this subcommittee has done in its leadership, particularly in the Education for the Handicapped Act of 1975, where learning disabilities has been included as a handicapping condition. We are grateful.

I would like to point out that the evidence that is published by the National Advisory Committee on the Handicapped states that 87 percent, of the learning disabled children are not being served. If we look at this same set of statistics from another perspective it says that of all the children who are not being served in the United States, 48 percent are children with learning disabilities.

About one-half of all the unserved are learning disabled and 87 percent of the learning disabled are not served. I think this is the very reason why we make our plea for a continuation of authorization for funding of the special programs under title VI–G.

We have accomplished a great deal since 1970 in the L D Movement but there is so much more to be done. Senator Stafford I would like to answer the question you posed previously to Miss Shover; "How soon will we get implementation of special education programs?"

In Wisconsin we have a mandatory special education law that was effective August 1, 1973. Last week, the superintendent of the Milwaukee Public Schools, representing about 20 percent of the handicapped children of the State, publicly stated that he expected the Milwaukee Public School System, if they were lucky, to implement this program by April of 1978—almost 5 years after the law became effective.

There is a big difference between the promise of the law and the performance in the local schools. We have a recognition of learning disability, in spite of the difficulty of definition; but we still have a tremendous job of implementing appropriate programs.

Local schools are not sure about curriculum. Many of the mainstream regular teachers are not sure about how they should handle children who have now achieved grade level, yet have certain learning problems. And we need a continuation of programming for what we call regional centers. These would be demonstration centers for service, for training and for research. They would be available to the local schools and would speed up the process of implementation of programs.

It is the essence of this unfinished business of lack of implementation that brings us here today. It has been stated that because learning disabilities are now included in 94-142 (and the entitlements go to the public schools) we do not need a special research, training and service program. This doesn't necessarily follow in those States which are not prepared to implement L D programs at the primary, elementary, and secondary levels.

I would reverse the proposition. Because we are included in Public Law 94-142, and because it is mandatory that the public schools in most States provide services, it is now important that they learn how to provide effective and appropriate service. Since learning disabilities is a relatively new discipline which has been introduced among the States for only about 5 years, most States do not have the curriculum know-how, nor do they have the professional staff to implement adequate programs.

I would point out that the small amount of funds authorized for learning disabilities programs has had a greater impact than any other dollars spent by Congress. The only exception I would put in the same bracket would possibly be the developmental disability appropriations, where you get $10 million of State programs (for $600,000 spent in Wisconsin). In learning disabilities, you don't spend anything in Wisconsin and you get about $12 million worth of State programs. And we are just beginning.

I know the hour is late and the committee has been very patient. We appreciate being invited. I can only tell you we need the leadership of Congress, because if you will create this identification of the need for continued research and models that can be used by the public schools, this will become the catalyst in the State and local schools to create an awareness that they can develop appropriate programs for children with learning disabilities.

I want to thank you again for your leadership and what the subcommittee has done, as well as for the opportunity to come here and speak for the 60,000 members in our 726 chapters throughout 49 States.

Senator STAFFORD. Thank you very much, Mr. Tash, for appearing here and helping the subcommittee in what we are looking for over the next 2 or 3 years. We are very grateful that you have made the time available to be here with us. I can assure you, as I have the others, that the members of the subcommittee who are in other meetings this morning will read your testimony when we begin our executive deliberations.

Mr. TASH. Thank you. I would also like to express our appreciation for the privilege you accorded our 49 State affiliates to submit written statements in the next few weeks. We appreciate this very much.

[The prepared statement of Mr. Tash and additional materials follow:]

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES
5225 GRACE STREET • PITTSBURGH, PA. 15236 • 412/881-1191

March 23, 1977

Comments of Eli Tash, President, National Association For Children With Learning Disabilities

on the:

Proposed authorization bill S.725 to extend certain programs under the Education of the Handicapped Act which omits recommendations for continued funding of the Model Centers Projects for Learning Disabilities under Part VI-C of EHA, before the Subcommittee on the Handicapped of the Senate Committee on Labor and Public Welfare.

I am Eli Tash, parent and President of ACLD. ACLD represents 60,000 parents through 726 chapters in 49 states: My address is 1130 East Dean Road, Milwaukee Wisconsin, 53217. My telephone number is 414-352-9609.

The ACLD is deeply aware of the concern of Congress for the welfare of persons with learning disabilities and of the positive action taken in the EHA of 1975 to include children with learning disabilities within the entitlements for handicapped children programs.

Title VI-C funded Learning Disabilities Demonstration Programs for the past five years. The formula for administration of the projects has changed radically during these five years. The early programs involved a flow-through to the state departments of public instruction. In 1973 direct contracts were initiated with the project Centers. Technical assistance grants were tried with varying degrees of success. The present arrangement of direct grants plus a technical assistance program is very promising.

National Officers
PRESIDENT
[illegible]
I VICE PRESIDENT
[illegible]
II VICE PRESIDENT
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III VICE PRESIDENT
[illegible]
SECRETARY
[illegible]
TREASURER
[illegible]
BOARD APPOINTMENT
[illegible]

National Directors
[illegible]

Professional Advisory Executive Committee
CHAIRMAN
[illegible]
HONORARY CHAIRMAN
[illegible]
PAST CHAIRMAN
[illegible]

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Professional Committee On Advocacy
[illegible]

The Model Centers effort over the past five years has been a good first effort to create a public awareness of available remediation techniques for children with learning disabilities. In many local education agencies throughout the nation there is still a general failure to implement programs for children with learning disabilities.

This is confirmed by the 1976 report of the National Advisory Committee on the Handicapped which states that 87% (1,706,000 out of a total of 1,966,000) learning disabled children were not served during the 1975-76 school year. (Table 1 page 2. The Unfinished Revolution: Education for the Handicapped, Stock No. 017-080-01532-3, U.S. Dept. of HEW.)

It is the opinion of ACLD that the Model Centers Program now being supported by BEH under the Title VI-G appropriations have served their purpose. We believe that the public interest would best be served by continuing funds under Title VI-G to support coordinated centers for research, training and service.

A resolution supporting such centers was approved by the Professional Advisory Board of ACLD and adopted by the Board of Directors of ACLD at its meeting in Houston Texas in March, 1973.

Federal assistance for such a program will not only advance the field of learning disabilities but will serve as an aid to advance programs for the children with learning disabilities.

We therefore respectfully request that this committee approve authorization for continued funding of Title VI-G to support Regional Co-ordinated Centers in 20 critical regions in the United States at an approximate annual cost of $450,000 for each Center and that this authorization be included in the Education of the Handicapped Ammendments of 1977. The program in each regional Center should be organised with four units as follows:

1. A clinical service unit which operates jointly with university or college personnel and school personnel as a service unit.

2. A training unit for the preparation of specialist personnel in diagnostic and remedial work operated by the university or college using the clinical service center as the practicum facility.
3. A research component which would concentrate on research primarily for the improvement of diagnostic assessment, evaluation and remediation.
4. A field study with a problem solving component which will concentrate on technical assistance to local school districts in the region, and on solving the problems faced by service units in clinics and schools.

We strongly believe that funding for the above Regional Centers should be specifically authorized by Congress and not left to the discretion of the BEH. This competition for research and demonstration funds in the total field of Education For the Handicapped generally results in a curtailment of funds for new disciplines which have yet to prove their merit among the many meritorious older projects seeking funds.

It is still necessary to "prime the pump" for learning disabilities programs when these children constitute 48% (1,706,000 out of 3,577,000) of the total unserved population of Handicapped Children (See: Report of National Advisory Committee on the Handicapped, mentioned above.)

Therefore we respectfully request that this committee add to the authorizations of S.725 the sum of $9,000,000 for the fiscal year 1977, and for each of the succeeding fiscal years, $10,000,000 for fiscal year 1980, $11,000,000 for fiscal year 1981 and $12,000,000 for fiscal year 1982, for Regional Centers to be funded under Title VI-G.

Thank you very much for this opportunity to present the views of the national ACLD. Some of our 49 state affiliates will submit their individual state points of view in separate written statements which you have so graciously permitted.

MAILGRAM

BILLINGS, MONT., *March 16, 1977.*

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building Washington, D.C.

DEAR SENATOR RANDOLPH: As State president of Montana ACLD I would like to urge you to consider title 6–G funds as part of the total package of the Education for the Handicapped Act. Our reasons:

A. Very little research done in this part of the country.
B. Monies are hard to get for school district.
C. Teacher training is a must.

MRS. WILLIAM I. MACBOYLE.

18:58 EST

ILLINOIS COUNCIL FOR CHILDREN
WITH LEARNING DISABILITIES, INC.,
Waukegan, Ill., March 4, 1977.

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

THE HONORABLE SENATOR RANDOLPH: Please accept this communication as an official statement of support by the Illinois Council for Children with Learning Disabilities in behalf of the retention of Title VI–G which provides funds for the special learning disabilities demonstration projects.

One of the most pressing needs in the field of learning disabilities as acknowledged by the literature, research profession and concerned organizations is the need for action research which will lead to the valid substantiation of methods, procedures, techniques, and delivery systems in providing qualitative services to the L.D. individual. A positive glimmer of hope was being emitted from the L.D. Demonstration Projects. To terminate the means of funding, will of course terminate these positive actions. Historically, anything of value over a period of time has been terminated before valid conclusion could be deducted. That's a great and realistic problem in the L.D. field. Since replication and sharing is a requirement of the demonstration projects, and since "funding" is a great incentive and motivator, let us not terminate the "means to the end". Keep Title VI–G. I believe we'll need it more than ever before if the full implementation of PL 94–142 is to be achieved at all levels.

Illinois A.C.L.D. heartily encourages positive action to retain Title VI–G.

Sincerely,

ROBERT E. ABBOTT,
Il. ACLD Government Relations Chairperson.

MASSACHUSETTS CHILD, INC., A.C.L.D.,
Hingham, Mass., February 28, 1977.

Hon. JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: This statement is offered for the purpose of amending Senate Bill 725, which was submitted February 11, 1977 by yourself, Senator Edward Kennedy, et al., to add:

CHILD SERVICE DEMONSTRATION CENTERS

SEC. 6. Section 661 of the Education of the Handicapped Act is amended to read as follows:

AUTHORIZATION OF APPROPRIATIONS

"SEC. 661. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $10,000,000 for the fiscal year 1977, $11,000,000 for the fiscal year 1978, $12,000,000 for the fiscal year 1979, $14,000,000 for the fiscal year 1980, $15,000,000 for the fiscal year 1981, and $16,000,000 for the fiscal year 1982.".

RATIONALE

1. Continued strong support of Title VI, Part G, of Section 661 of Public Law 91–230 is necessary to serve the original congressional intent and popular demands for research and demonstration in assisting Public School development of adequate and cost effective programs for the learning disabled. (Of course, the results of these sound programs will accrue to benefit the entire school population as the programs are refined, standardized and incorporated into the educational systems.)

2. You and your fellow Congressmen are commended for recognizing the lack of Child Service Demonstration Centers (CSDCs) when you originally passed Public Law 91–230. The CSDCs are model centers which examine innovative teaching methods and equipment, combine those with proven teaching techniques, eliminate the superfluous, and develop incisive programs which evidence the six 'C's you require, namely: clear, concise, complete, credible, cogent and correct. They are also confirmed by proven educational standards. No other Public Law or appropriating authority provides this basic service. The support and improvement of our CSDCs is both economical and essential to our students and the continued advancement of our teaching profession.

3. If the appropriations recommended above are deemed inadequate, please augment them as you know will be feasible.

Respectfully,

JAMES D. FRANKS,
President, Massachusetts CHILD, Inc.—A.C.L.D.

TENNESSEE ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES,
Jackson, Tenn., March 7, 1977.

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: I am deeply concerned about the Title VI–G being omitted from the Education of the Handicapped Act, S. 725. Since Tennessee is fortunate to have one of the Research and Demonstration Projects now funded under Title VI–G (PASS Model Project, George Peabody College, Nashville) we are particularly eager for it's continuation as a model for the development of Learning Disabilities programs in the Public Schools.

As an organization representing the parents of learning disabled children, we feel there is a tremendous need for more projects, such as the PASS Project, rather than a cut back or elimination. Our school systems need guidance in the establishment of programs for handicapped children. It's not enough to pass a law mandating services for these children, they must be shown how to deliver them. Without assistance from researchers, we cannot hope to obtain quality services. Therefore, on behalf of the Tennessee Association for Children with Learning Disabilities, I am highly recommending that Title VI–G be included in the Education of the Handicapped Act.

We, the parents of these children, thank you on their behalf.

Sincerely yours,

JANE WOLFE, *President, Tennessee ACLD.*

LOUISIANA ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES,
Lafayette, La., March 1, 1977.

SENATOR JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: It has come to our attention that the renewal of the Education for the Handicapped Act that was introduced on February 11 as #S725 omits Title VI–G which provides for special learning disability demonstration projects.

After speaking to the Director of the Title VI–G project here in Louisiana, it is our opinion that programs of this type are not adequately funded under any other existing legislation.

The Louisiana ACLD believes Title VI–G should be retained to serve the original congressional intent of research and demonstration to assist public schools in developing appropriate learning disability programs.

Sincerely,

LESLIE HAYES,
President, Louisiana ACLD.

VERMONT ASSOCIATION FOR LEARNING DISABILITIES, INC.,
Rutland, Vt., March 5, 1977.

SENATOR JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: The Vermont Association for Learning Disabilities, Inc. is a state-wide organization for representing parents and professionals who wish to advance the education and general welfare of Vermont children, youths and adults who have learning disabilities. We are affiliated with the National Association for Children with Learning Disabilities, Inc.

We respectfully request an extension of the Model Center Programs that are authorized under Title VI–G of the Public Law 91–230 Education for the Handicapped Act. We are opposed to ending the Model Centers Program and putting the fund into a general appropriation for the Bureau of Education for the Handicapped. We would like to see the continuation of funds under Title VI–G to support coordinated centers for training, research and service to serve the learning disabled.

We respectfully request that this written statement be include in the official record of the hearings on S 725, the proposed extension of Education for the Handicapped Act.

Sincerely yours,

JUDITH F. KAMBERG,
President, Vermont Association for Learning Disabilities, Inc.

OHIO, ACLD,
New Carlisle, Ohio, February 28, 1977.

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: I am writing with reference to S–725, the bill which was introduced by yourself on February 11th, as the extension of the Education of the Handicapped Act.

As I understand, this proposed bill omits the extension of the Title VI–G program which has provided funds for special Learning Disabilities Demonstration Projects. The Ohio Association for Learning Disabilities has strongly supported the Title VI–G project in this state and urge that this program can be continued. The primary use of Title VI–G we have seen in Ohio and advocate the continued expansion is the establishment of secondary education learning disabilities classroom units, where considerable need exists.

Therefore, please accept this letter as part of the public hearing record in support of the continuation of the Learning Disabilities Demonstration Projects, presently funded under Title VI–G, Education of the Handicapped Act.

Respectfully,

CHARLES AMBUSKE, *President.*

WACLD,
Green Bay, Wis., February 24, 1977.

DEAR SENATOR RANDOLPH,

We in Wisconsin believe "Title VI–G" should be retained and reinstated in bill S 725.

It is vital to the mandates of our federal and state statutes, "a child is entitled to an education *appropriate* to his needs."

We still have districts offering: (1) no programs, (2) inappropriate programs and (3) insufficient programs.

We have a tremendous need for more information and data for our school districts to serve children, appropriately.

If we really mean, "Kids come first" this is one of the most important areas to prove it.

Please, very seriously, consider this opportunity to serve children—fully.

Sincerely,

JERROM P. ASCHENBRENER, *President.*

UTAH ASSOCIATION FOR CHILDREN
WITH LEARNING DISABILITIES,
March 14, 1977.

SENATOR JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: On behalf of the Utah Association for Children with Learning Disabilities, I am writing to you concerning the renewal of the Education of the Handicapped Bill, Senate Bill 725. It is my understanding that the present bill eliminates Title VI–G funds for special Learning Disabilities Demonstration Projects.

We feel that these funds should be retained because:

1. research in the field of learning disabilities has been of a limited nature;
2. the application of the research findings from the demonstration centers will benefit both state and local educational agencies, and
3. services to the learning disabled would be up-graded.

We would appreciate the incorporation of this letter into the March 2nd Senate Hearings on this matter.

Sincerely yours,

M. RUSS SCHOLZ, *President.*

MICHIGAN ASSOCIATION FOR CHILDREN
WITH LEARNING DISABILITIES, INC.,
Detroit, Mich., March 15, 1977.

SENATOR JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and and Public Welfare, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: The Michigan Association for Children with Learning Disabilities has a deep concern for the continuation of demonstration projects that presently are funded under Title VI–G of the Education of the Handicapped Act.

It is of utmost importance that research and related purposes relating to the education of children with specific learning disabilities be continued because:

1. Hopefully, future research will someday provide an answer to the cause of learning disabilities which would enable us to take preventative action.
2. Current techniques for recognizing and evaluating learning disabilities will be improved.
3. Quality of the individualized programs will be improved.

Programs are needed for professional or advanced training for educational persons who are teaching, or are preparing to be teachers of, children with specific learning disabilities, or such training for persons who are preparing to be supervisors and teachers of such personnel. In Michigan, one of our great problems is that many teachers do not have adequate and consistent training. There seems to be an inconsistency in standard procedures for training learning disability teachers. Some courses now given are not really helpful. In-service and upgrading of regular teachers is a must. We do not have adequate personnel to do in-service programs.

Establishing and operating model centers for the improvement of education of children with learning disabilities is desperately needed in Michigan. At present, if a parent prefers to have their child tested outside the public school system (usually because of a long waiting period to have the testing done by the public schools) they can not be sure the results will be accepted by the school to determine program eligibility and placement. Also, the model centers could be available to children whose local districts are not providing learning disabilities programs—until such time that the district complies with the law. The centers might also make parent education programs available. Not only do learning disabled children need help—parents need to know their child's strengths and weaknesses and how to deal with their learning disabled youngster so that he/she will receive an equal opportunity to reach their maximum potential. Parents must be made aware of their rights mandated by law.

We hope that our statement will be incorporated and made part of the record of the hearing on S.725, the proposed extension of the Education of the Handicapped Act.

Respectfully yours,

MELBA KUBAT,
MACLD State Cordinator, Parent Advising Service.

[MAILGRAM]

ATLANTA, GA., *March 20, 1977.*

SENATOR JENNINGS RANDOLPH,
Chairman Subcommittee on the Handicapped,
Senate Office Building, Washington, D.C.

We urge you not to eliminate funds for specific learning disabilities from S. 725 section 6G. The grants in Public Law 92-230 provided services such as research, teacher training, and demonstration centers. Public Law 94-142 does not provide for these services which must continue as the work of educating classroom teachers about children with learning disabilities has just begun in Georgia. Diagnostic screening and adequate programs for those identified have not yet been achieved.

As parents of two LD children we urge you not to eliminate this funding.

ANN MARIE AND BILL KINZER.

MISSOURI ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES,
Springfield, Mo., March 3, 1977.

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: Missouri ACLD is deeply concerned about the deletion of Title VIG funds from S. 725.

Although only one Child Demonstration Service Project exists in our state; we feel that viable models, especially in the area of secondary level educational programs, are being developed nationally. These models are vital to the educational planning and programing of learning disabled students.

We realize that some funds are available under public law 94-142 for research and development in the field of learning disabilities, but feel that their low priority in the statute might preclude their utilization in a significant manner. We have relayed our concern to Senator Thomas Eagleton.

On behalf of Missouri ACLD, we respectfully urge the committee to retain Title VIG funds.

Sincerely yours,

MRS. JOHN J. MCKINSEY,
Missouri ACLD.

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES,
Pittsburgh, Pa., March 14, 1977.

Senator JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: We are enclosing with this letter the Position Paper of the Association For Children With Learning Disabilities (ACLD) and the Division of Children With Learning Disabilities of the Council of Exceptional Children (DCLD) with regard to Senate Bill 725 and authorization of funding for Child Service Demonstration Centers under Part VI-G of the present law.

ACLD and DCLD concur with the Subcommittee's position that the Learning Disabilities Model Centers should not be double funded under both the general authorization and the specific authorization of Part G. However, we feel it is of vital necessity that the continued funding of future Model Centers for Children

With Learning Disabilities be specifically assured in the accompanying committee statement which approves the authorization for funding.

The enclosed position paper has been approved by National ACLD and its Professional Advisory Board and DCLD. This establishes the rationale for our position on this matter.

Sincerely,

ALICE SCOGIN,
President ACLD.

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES,
Pittsburgh, Pa., March 12, 1977.

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES AND THE DIVISION FOR CHILDREN WITH LEARNING DISABILTIES POSITION PAPER AND RECOMMENDATIONS FOR CHANGING SENATE BILL 725, THE 1977 AUTHORIZATION BILL TO EXTEND CERTAIN PROGRAMS UNDER THE EDUCATION OF THE HANDICAPPED ACT

The Association for Children With Learning Disabilities and the Division of Children With Learning Disabilities Council of Exceptional Children, respectfully request that the report of the Senate Sub-Committee on the Handicapped be presented to the Senate Committee on Education with the following articles:

Whereas, Senate Bill 725 does not extend Part G. of the Education of the Hadicapped Amendments of 1977—Assurance is hereby given that the service components presently included in Part G will be transferred to:

Part C—Centers for Service.
Part D—Training Personnel.
Part E—Research.
Part F—Instructional Media.

Whereas, It is further necessary that such Assurances include Congressional instructions to the Bureau of the Education of the Handicappped to make proportionate shares of monies available for Model Centers for Service, Personnel Training, Research, and Instructional Media for Learning Disabilities;

Whereas, Learning Disabilities is still an emergng field and in need of continuous support;

Be it resolved that the above request is to be a pledge of faith to persons with Learning Disabilities throughout the United States.

Respecfully submitted.

ALICE SCOGIN,
President, ACLD.
DR. DONALD HAMMILL,
President, DCLD.

AMERICAN SPEECH AND HEARING ASSOCIATION,
Washington, D.C., March 11, 1977.

Hon. JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR RANDOLPH: February 8 testimony before your Subcommittee by representatives of the American Speech and Hearing Association principally focused on an effort by the U.S. Food and Drug Administration to regulate the labeling and conditions for sale of hearing aids. But it also touched briefly on our hope that the Congress will extend the discretionary funding authorities of the Education of the Handicapped Act, and requested that we be permitted to submit further views on such an extension before the close of the public record on the Subcommittee's present proceedings. We now ask that you authorize inclusion of the several views contained in this letter in that record.

First and generally, we enthusiastically endorse the proposal you introduced February 11 (S. 725) to extend "the existing act, inclusive of part B—the State grant program—through 1982."

Second and more specifically, we concur with the determination made by you and S. 725's co-authors that the circumstances which not long ago required the existence of a National Advisory Committee on Handicapped Children and of a special and separate authorizing authority for programs for children with specific learning disabilities are no longer extant. Both the Advisory Committee and part G of the Act have served their temporary purposes, and served them well.

The Committee provided needed leadership and guidance to an infant Bureau of Education for the Handicapped. But today the Bureau is a decade old—strong, capably led, and functioning in an Administration genuinely committed to meeting the needs of handicapped children. Part G of the Act was generally intended to focus public attention and government funding initiatives on the special education needs of a population which was sometimes overlooked in the identification of and delivery of appropriate educational services to handicapped children. Part G has served as a necessary and appropriate stepping stone to the inclusion of the phrase "children with specific learning disabilities" in the federal definition of handicapped children. The Education for All Handicapped Children accomplished that ultimate purpose, making the continuation of part G's existence unnecessary.

Third and finally, we ask your and the Subcommittee's consideration of the following two proposed "technical" amendments to the Education of the Handicapped Act:

1. The deletion of Part A's section 602(15), which defines the term "children with specific learning disabilities."

This proposed amendment would, we believe, serve the interest of consistency by removing from the Act's "definitions" section the single detailed description of the several handicapping conditions contained in section 602(1), which defines the term "handicapped children." The proposed amendment would also permit the unfettered and uncomplicated fulfillment of that portion of the Education for All Handicapped Children Act which guarantees congressional oversight of the Office of Education's management of specific learning disabilities related issues.

2. The deletion of the term "speech impaired" from the section 602(1) definition of "handicapped children," and the insertion, in its place, of the term "speech or language impaired."

This proposed amendment would *not* have the effect of creating a new and additional category within the "handicapped children" definition. Rather it would provide needed clarification and uniformity in the identification, counting, and reporting of language impaired children. And it will enable us, for the first time, to accurately define the size of the nation's language impaired population, thereby enabling us to tailor relevant special education programs in a way that will appropriately meet this population's educational needs. The children usually envisioned by the term "speech impaired" are those whose speech problems are distinctly speech related (e.g., stuttering, voice disorders). But there are other children who suffer language-based speech impairments, such as impaired articulation resulting from a disorder in the phonological component of language. And there are many more who experience discrete impairments of language, such as disordered syntax. Speech-language pathologists identify these children and the specific nature of their expressive problem, but thereafter experience great difficulty in reporting the children identified. Some steps have been taken which have the effect of recognizing that these language-impaired children exist and clarifying the process for reporting their existence and their numbers; for example:

(*a*) A growing number of state and local education agencies have adopted the reporting category "speech or language impaired" (e.g., Maine, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Tennessee, Texas, Wisconsin), making it impossible for language impaired children to be reported under the federal "specific learning disability" category. This state action is most appropriate, we feel, inasmuch as these children are identified and treated by speech-language pathologists.

(*b*) The *Student/Pupil Accounting* publication of the U.S. Office of Education (National Center for Educational Statistics, Handbook V, revised 1974) defines "speech handicapped" and "language handicapped" separately (at p. 51), but goes on to point out that, ostensibly because of the narrowness of the federal "speech impaired" category, "the speech handicapped and the language handicapped often are reported collectively as the speech impaired . . . in programs of education for the handicapped." The Handbook's definition of "speech pathology services and audiology services" includes (at p. 172) the provision of services to the language impaired.

(*c*) Proposed regulations for the implementation of Public Law 94–142 define the category "speech impaired" so as to include within the category children with language impairments (41 FR 56977). These same proposed regulations (at p. 56978) define "speech pathology" as including the identification of children with speech or language disorders, diagnosis and appraisal of specific speech or language disorders, referral for medical or other professional attention necessary for the habilitation of speech or language disorders, and provision of speech and language habilitation.

To assure the accurate and appropriate identification and reporting of children with language impairments, then, and to assure that the speech and language related category of impairment in section 602(1) of the Education of the Handicapped Act is consistent with state and local categories, P.L. 94-142 regulations, and National Center for Educational Statistics reporting categories, we respectfully request a technical amendment changing the section 602(1) "speech impaired" category to a category identified as "speech or language impaired."

Your interest in our views is greatly appreciated.

Sincerely,

RICHARD J. DOWLING,
Director, Governmental Affairs Department.

Senator STAFFORD. The Chair will now announce that on March 21 and 22 this subcommittee will continue this series of hearings. On March 21 the subcommittee will be counseling with those who have expressed interest in reviewing the Developmentally Disabled Assistance and Bill of Rights Act. The administration will testify on a variety of matters, including education for handicapped children and developmental disabilities on March 22.

And so, there being no further business for the subcommittee at this time, the subcommittee will stand adjourned until March 21.

[Whereupon, at 11:25 the subcommittee recessed, to reconvene Monday, March 21, 1977.]

REVIEW OF PROGRAMS FOR THE HANDICAPPED, 1977

MONDAY, MARCH 21, 1977

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED OF THE
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The subcommittee met 9:30 a.m., pursuant to notice, in room 4232, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph, Hatch, and Stafford.

Staff present: Mrs. Patria G. Forsythe, professional staff member.

Senator RANDOLPH. The committee will come to order.

This is the seventh day of hearings by the Subcommittee on the Handicapped on a review of programs for the handicapped. Today the subcommittee will hear from witnesses who have a wide range of interests concerning the needs of handicapped persons.

Some witnesses have expressed their interest in the activities funded under S. 725 and will have comments concerning this extension of the discretionary programs under the Education of the Handicapped Act. The subcommittee always learns from its witnesses at hearings, for it is those of you on the firing line who can tell us of unmet educational needs.

Other witnesses today will be commenting on how the developmentally disabled person in our society is being served by our Federal grant program, the Developmentally Disabled Assistance and Bill of Rights Act. As always, the assistance of those of you intimately involved with the service delivery system will prove valuable as the subcommittee seeks to improve services to handicapped persons.

The subcommittee welcomes all of you who have made such special efforts to be here today.

I shall ask the first of our panel groups, that is Mr. McGuire, accompanied by other individuals, to come up.

I will ask you, Mr. McGuire, to either introduce them or have them introduce themselves. And you will, of course, introduce yourself and your organization, and make the comments you want to make about the organization for which you speak.

STATEMENT OF WILLARD H. McGUIRE, VICE PRESIDENT, NATIONAL EDUCATION ASSOCIATION, WASHINGTON, D.C., ACCOMPANIED BY LAURA FOUNTAIN, SPECIAL EDUCATION TEACHER, MEMBER, BOARD OF DIRECTORS, INDIANA STATE TEACHERS ASSOCIATION; AND RICHARD CORTRIGHT, INSTRUCTIONAL AND PROFESSIONAL DEVELOPMENT STAFF OF THE NATIONAL EDUCATION ASSOCIATION

Mr. McGuire. Thank you, Senator Randolph.

I am Williard H. McGuire, vice president of the National Education Association.

I have with me today Laura Fountain, board of directors, member of the Indiana State Teachers Association, and Mr. Richard Cortright from the instructional and professional development division of the National Education Association.

The NEA represents over 1.8 million teacher members throughout the Nation and in overseas dependent schools. We appreciate this opportunity to share with you some of our concerns about the programs for educating the handicapped.

The National Education Association has been deeply interested in and involved with the passage of Public Law 94-142, recommending changes in the regulations of this law, and forecasting the effects of the law on teachers and students.

Following the passage of the law, the NEA prepared a written response to the Third Concept Paper, convened a special group of teacher specialists to prepare a draft response to the published regulations, and presented testimony at regional hearings on the regulations, as well as submitting a written response to the regulations proposed by the Bureau of Education of the Handicapped.

We appreciate the cooperation of BEH in its efforts to secure a wide range of views on this matter.

The NEA has considered the effect of section 504 of the Vocational Rehabilitation Act, worked with educational leaders involved in problems of teaching the learning disabled, and prepared written response to the regulations on the learning disabled. Today we appreciate the opportunity to provide a brief overview of Public Law 94-142 at your oversight hearing.

The NEA considers Public Law 94-142 one of the most far-reaching and potentially effective pieces of contemporary educational legislation. We supported it and we want it to work. Thus, in the spirit of a friend of the law, we will speak briefly about some of our concerns which we are not assured will be met satisfactorily after October 1 this year.

It has been brought to our attention by our members who are employed by the Bureau of Indian Affairs, and reinforced by a Government Accounting Office report, that certain problems exist in the delivery of service to handicapped children in BIA schools. We understand that some 19,000 Indian children, ages 6 through 21, are in extraordinary need of special education and that less than half are being served. We anticipate there will be some problems to face, such as questions as to who has the responsibility for the education of a handicapped Indian child—the State or the BIA.

The State may inform Indian parents that they could receive services from the BIA and the BIA could respond by refusing service because of a lack of funds.

The problem is twofold.

First, a clear policy must be set as to who provides services for the Indian child.

Second, the BIA must assign a priority to special education within its own program and not use other funds to fund special education programs.

We respectfully submit that Public Law 94-142 will add administrative and financial pressures on BIA as it attempts to comply with this law.

We raise these concerns with you in hopes that this subcommittee will address these issues. We do not want to see handicapped Indian children deprived of equal educational opportunities.

Now, Laura Fountain will continue the testimony.

Senator RANDOLPH. Thank you very much, Mr. McGuire.

Laura, you may proceed, please.

Mrs. FOUNTAIN. Thank you.

Proper implementation of the performance of the act is insured by parts A through F.

We would therefore urge Congress to reauthorize and fund parts A through F.

Speaking as a special education teacher and for many other special education teachers, I would like to give you five basic reasons that the program should continue and be funded.

First, too often, we have seen that when a money situation in the education community becomes a serious problem, the immediate effect is on special programs. Sometimes these programs are those which are special to the regular education schools, such as elementary, music, arts, and physical education.

However, more and more often, the immediate effect seems to be on those programs touching students who are handicapped so that they have perhaps one fewer school psychologist or one fewer speech and language and hearing specialist, or two to three more students per class for each teacher of the mentally retarded, or the choice between an occupational therapist or a physical therapist rather than both.

I could go on forever. But these are examples of moderate cutbacks due to the dollar shortage.

We believe that every student who is handicapped has the right to a free and appropriate public education.

Second, the individualized education program is something that special education teachers have for a long time used for students who are handicapped, but they have, indeed, "carried it in their heads" rather than placed it in writing.

In order to assure the rights of parents and of students who are handicapped, Congress has now required this to be developed as a team effort and placed in written form. This will require special inservice research and training of professionals.

Third, in order that the reality of full appropriate public education for all students who are handicapped will ever be reached, I think, there are two minimal requirements—personnel and equipment. Both of these cost money. The same money that has previously been denied to special students for education, Mr. Chairman, may once again be denied through State and local funding procedures.

Federal money which will fund excess costs will indeed become an incentive to States and allow the education of students with handicaps to progress.

Federal funding will also help to assure that the rights of students who are handicapped will be protected as well as to reaffirm Federal awareness and responsibility in this area of education.

Fourth, of particular concern with least restricted environment is that the regular education teacher and the regular education students be (1) protected, and (2) prepared for the appropriate approach to the student who is handicapped.

Some of our concerns center around the need for a regular education teacher preparation and regular education student preparation in the areas of (1) knowledge; (2) understanding; and, therefore (3) acceptance of the student who is handicapped.

Another concern just as great is the need for a close working relationship to be established between regular education teachers and the special education teacher in regard to curriculum, methods, materials, special services, special equipment, et cetera, needed in the regular classroom so that a student who is handicapped may indeed receive an appropriate education.

Still another concern is that we don't want the student who is handicapped to be placed in a classroom that is overcrowded or undersized in area or not appropriately equipped, et cetera, so that the end result will be that a decision is forced on to the teacher to choose between quality education for one student or a group of students, or mediocrity for all.

Our hope is that LRE will be a comfortable, understandable, tolerable, acceptable, and appropriate placement for all—the parent, the student who is handicapped, the special teacher, as well as regular education teachers and students.

Fifth, the sometimes heard statement that "We don't have to comply if we don't apply" has been more than adequately answered by section 504 of the Rehabilitation Act of 1975 for those students covered by Public Law 94–142.

First of all, the SEA and LEA now must become committed to the education of all students with handicaps. Quality and appropriate education will then indeed follow. The efforts of advocates for these students and the use of the procedural safeguards that Congress has built into Public Law 94–142.

Thank you.

Senator **Randolph**. Thank you very much.

Mr. **Cortright**. Senator Randolph——

Senator **Randolph**. I would like your name, please, for the record.

Mr. **Cortright**. I am Richard Cortright with the Instructional and Professional Development Staff of the National Education Association.

In reviewing the programs proposed for the handicapped, we are also concerned with the implementation of parts C and D.

By assessing the needs of our members, we know that there is a groundswell of anxiety about implementing Public Law 94–142, particularly in terms of "regular" teachers; that is, nonspecial education teachers who will be asked to provide direct services to handicapped children.

Teachers, we find, agree heartily with the educational philosophy underlying the law, the position that calls for equal opportunity for those young people in our society who have generally not been afforded equal educational opportunity, those who are the handicapped.

However, most teachers have not been educated to deal with one or more of the multitudinous forms of handicapping which are defined in the law. They are bewildered, for example, at the prospect of having to teach the blind, EMRS, or LDs, since the teacher education program which they experienced did not ready them to teach children with even one kind of handicap.

Moreover, and perhaps even more important, there is concern that the variety of continuing education efforts often labeled in-service training will not in the future help them to become prepared. Generally, in-service education has been flimsy since it has not been teacher-designed nor staffed.

We believe that all in-service education should be designed by or in cooperation with the teacher organization which represents local teachers.

We would recommend, for example, that the teacher centers concept, as created by Public Law 94–482, become a method by which teachers will determine their own in-service needs relating to the handicapped.

We are convinced also that excellent educational materials must be prepared both for teachers and students, but we are also wary that teachers, those who will be actually using these materials, may not have the opportunity to decide what materials should be prepared.

Those educational practices which teachers find effective are the practices which we want to see disseminated. To insure appropriate in-service education and dissemination of successful programs adequate funding is necessary.

In candor, we must express our concern at what may happen as a result of part E, which specifies the research which will be carried out relating to the education of handicapped children. We want to insure that research that is produced will aid the practitioner. In the past, much research has been considered useless.

We recommend that, as educators, we must influence the kinds of data and answers that will assist our teachers doing their job better.

We urge that Government agencies administering this law assure that teachers are asked to contribute their expertise to help solve problems and that decisions about research not be left only to the researchers.

Part F addresses the use of instructional media for the handicapped. We look to that time in the future when Congress will be able to look back upon the proper use of educational technology for the handicapped as legislated by Public Law 94–142 and see that advances made will have an effect on the teaching methods. For it is our intent that Public Law 94–142 become but the first step toward the real individualization of instruction for all students.

We would reiterate our concern regarding the inclusion in the law of procedures to protect teachers. There are many procedures, including those of due process, for parents of the handicapped and for the handicapped themselves, but none for teachers.

For example, an individualized education program "team" is to prepare an individualized education program for a handicapped student and then determine what least restrictive environment is appropriate.

If the teacher on the team disagrees, will that teacher be held unfairly accountable for the resulting ineffectiveness of the individualized education program?

To insure adequate teacher input, we cannot recommend strongly enough that several teachers become members on all State and/or national advisory bodies responsible for advising administrators of programs for the education of the handicapped.

Finally, and perhaps of paramount importance to the success of this law, we would speak to the need for adequate funding. We urge the Congress to consider carefully the provisions of the law and then match these provisions with the funding that will be necessary to carry out the programs mandated by the law.

Thank you, sir.

Senator RANDOLPH. Thank you, Mr. Cortright.

We believe, Mr. McGuire, that it would be helpful if you and your associates could provide us with additional recommendations on how handicapped Indian children might be better served under the Education of the Handicapped Act.

Can you tell us now what provisions you have for gathering that material and providing it to us during the time we are considering this legislation?

Mr. McGUIRE. Yes.

Through our State affiliates and our various divisions of NEA, we will be able to gather that particular data in conjunction with the appropriate State agencies and the BIA. And I am certain we can get that to you in a very short period of time so it will be available to you at the time of your deliberations. I will take it as my responsibility to see that your committee has that.

Senator RANDOLPH. Thank you very much, Mr. McGuire.

For the record, let me indicate today that the administration, in connection with testimony they will be giving tomorrow morning—and our session will begin at 9 and not at 9:30 tomorrow—will be asked the same question. We need to correlate this material.

We appreciate your help in this instance.

Mrs. Fountain mentioned the situation as to the extension of the provisions of Senate 725, C through F.

We will continue, of course, to press for the five year extension. Do you have some information as to how the House might view the period of five years?

Mrs. FOUNTAIN. Just that they seem to be more favorable toward the 5-year program than they previously were.

Senator RANDOLPH. Now, I am sure you will not take offense or misunderstand what I now say because it has no direct bearing on the matters that you are discussing today. But it is the usual circumstance for me to make the same statement to those educators who come before this subcommittee or the Subcommittee on Education itself—or even to say to the nominees that come before the full committee for approval. I always make this statement, and I appreciate your comment, if you would care to make it.

I do not believe in teachers in our public school system striking. And I want that always on the record.

As I drove to the Capital this morning, I noticed on the radio there was mention of a further strike in the public school system in Missouri. I recall that 51,000 schoolchildren are not going to school today in the jurisdiction affected by the strike.

Given the opportunity, I always mention this, whether it is the National Education Association representatives or the American Federation of Teachers of the AFL–CIO. I always mention it and would like to give you all the opportunity to comment because I feel very strongly about this matter.

You have been talking about "concern" and "anxiety" here. Well, I have a concern and anxiety over this situation as it continues to surface with greater frequency throughout the country.

Do you wish to make comment, Mr. McGuire?

Mr. McGuire. I appreciate your concerns. And we do understand those concerns. We have grave concern about the processes that are taking place in public employment and within the teaching profession. And we are working for an orderly process to handle these particular matters.

Currently, strikes are a problem in some places. There are certainly not a large number compared to the possibility that would exist there. And we are seeking various means of remedying the matter of interaction between the teachers and other public employees and their employers.

We are looking forward to a day when there will be processes for the resolution of these, Mr. Chairman, that will satisfactorily resolve these problems. We too are hopeful strikes can be kept at a minimum and eliminated altogether if they can be.

However, at this point in time, they are still part of the misunderstanding that takes place in that particular field.

We appreciate your comments on that.

Senator Randolph. I want you to know that I believe in the collective bargaining process for the teacher just as for others in the private sector. I believe in negotiation and mediation. I believe in all of these processes.

I believe, however, that in connection with the teaching profession, special caution is necessary because children and their education are involved. I believe in one instance the strike lasted 42 school days.

And now I come back to the subject matter of these hearings. Handicapped students must not lose one day of their education.

Mr. McGuire. I understand. Yes.

Senator Randolph. A handicapped student needs every opportunity in the learning process on a daily basis, 12 months a year, if he is to be provided an appropriate education.

Thank you, Mr. McGuire, Mr. Cortright, and Mrs. Fountain.

Mr. McGuire. Thank you very much.

Senator Randolph. Thank you very much for coming.

[The prepared statements of Mr. McGuire and Mrs. Fountain follow:]

nea
GOVERNMENT RELATIONS
NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 833-5411
JOHN RYOR, President
WILLARD H. MCGUIRE, Vice-President
JOHN T. MCGARIGAL, Secretary-Treasurer
TERRY HERNDON, Executive Director

STATEMENT OF
WILLARD H. McGUIRE
VICE-PRESIDENT
OF THE
NATIONAL EDUCATION ASSOCIATION
ON
THE EDUCATION OF THE HANDICAPPED ACT
BEFORE THE
SUBCOMMITTEE ON HANDICAPPED
OF THE
SENATE COMMITTEE ON HUMAN RESOURCES
MARCH 21, 1977

The NEA represents over 1.8 million teacher members throughout the nation and in overseas dependent schools. We appreciate this opportunity to share with you some of our concerns about the programs for educating the handicapped.

The National Education Association has been deeply interested in and involved with the passage of P.L. 94-142, recommending changes in the regulations of this law, and forecasting the effects on teachers and students of the law. Following the passage of the law the NEA prepared a written response to the Third Concept Paper, convened a special group of teacher specialists to prepare a draft response to the published regulations, and presented testimony at regional hearings on the regulations, as well as a written response to the regulations to the Bureau of the Education of the Handicapped. We appreciate the cooperation of BEH in its efforts to secure a wide range of views on this matter. The NEA considered the effect of Section 504 of the Vocational Rehabilitation Act, worked with educational leaders involved in problems of teaching the learning disabled, and prepared written response to the regulations on the learning disabled. Today we appreciate the opportunity to provide a brief overview of P.L. 94-142 at your oversight hearing.

The NEA considers P.L. 94-142 one of the most far-reaching and potentially effective pieces of contemporary educational legislation. We supported it and we want it to work. Thus, in the spirit of a friend of the law, we will speak briefly about some of our concerns which we are not assured may be met satisfactorily after October first this year.

It has been brought to our attention by our members who are employed by the Bureau of Indian Affairs, and reinforced by a Government Accounting Office report, that certain problems exist in the delivery of service to handicapped children in BIA schools. We understand that some 19,000 Indian children ages six through twenty-one are in extraordinary need of special education and that less then half are being served. We anticipate there will be some problems to face. Questions could arise as to who has the responsibility for the education of a handicapped Indian child: the state or the BIA. The state may inform Indian parents that they could receive services from the BIA and the BIA could respond by rafusing service because of a lack of funds.

The problem is twofold. First, a clear policy must be set as to who provides services for the Indian child. Second, the BIA must assign a priority to special education within its own program and not use other funds to fund special education programs.

We respectfully submit that P.L. 94-142 will add administrative and financial pressures on BIA as it attempts to comply with this law.

We raise these concerns with you in hopes that this Subcommittee will address these issues. We do not want to see handicapped Indian children deprived of equal educational opportunities.

In reviewing the programs proposed for the handicapped we are concerned with the implementation of Part C, Section 624 (a) (3) which provides for "training of professional...personnel" and (4) "dissemination of materials and information about practices found effective in working with...children," Part D. Section 631

(1) (2) granting monies to institutions to provide "training of professional personnel to conduct training of teachers," and Part D, Section 632, granting monies to state educational institutions, as well as the other sections of Part D. By assessing the needs of our members we know that there is a groundswell of anxiety about implementing P.L. 94-142, particularly in terms of "regular" teachers; that is, non-special education teachers who will be asked to provide direct services to handicapped children.

Teachers, we find, agree heartily with the educational philosophy underlying the law, the position that calls for equal opportunity for those young people in our society who have generally not been afforded equal educational opportunity, those who are the handicapped. However, most teachers have not been educated to deal with one or more of the multitudinous forms of handicapping which are defined in the law. They are bewildered, for example, at the prospect of having to teach the blind, EMR's, or LD's since the teacher education program which they experienced did not ready them to teach children with even one kind of handicap.

Moreover, and perhaps even more important, is their concern that the variety of continuing education efforts often labeled in-service training will not in the future help them to become prepared. Generally, in-service education has been flimsy since it has not been teacher-designed nor staffed.

We believe that all in-service education should be designed by or in cooperation with the teacher organization which represents local teachers.

We would recommend, for example, that the teacher centers concept be utilized, as created by P.L. 94-142 become a method by which teachers will determine their own in-service needs relating to the handicapped.

We are convinced also that excellent educational materials must be prepared both for teachers and students, but we are also wary that teachers, those who will be actually using these materials, may not decide what materials should be prepared.

Those educational practices which teachers find effective are the practices which we want to see disseminated. To insure appropriate in-service education and dissemination of successful programs adequate funding is necessary.

In candor, we must express our concern at what may happen as a result of Part E which specifies the research which will be carried out relating to the education of handicapped children. We want to insure that research that is produced will aid the practitioner. In the past, much research has been considered useless. We recommend that as educators, we must influence the kinds of data and answers that will assist our teachers doing their job better. We urge that government agencies administering this law assure that teachers are asked to contribute their expertise to help solve problems and that decisions about research not be left only to the researchers.

Part F addresses the use of instructional media for the handicapped, we look to that time in the future when the Congress will be able to look back upon the proper use of educational technology for the handicapped as legislated by P.L. 94-142 and see that advances made will have an effect on the teaching methods.

For it is our intent that P.L. 94-142 become but the first step toward the proper individualization of instruction for all students.

We would reiterate our concern regarding the inclusion in the law of procedures to protect teachers. There are many procedures, including those of due process, for parents of the handicapped and for the handicapped themselves, but none for teachers. For example, an individualized education program "team" is to prepare an individualized education program for a handicapped student and then determine what least restrictive environment is appropriate. If the teacher on the team disagrees, will that teacher be held unfairly accountable for the resulting ineffectiveness of the individualized education program?

To insure adequate teacher input we cannot recommend strongly enough that several teachers become members on all state and/or national advisory bodies responsible for advising administrators of programs for the education of the handicapped.

Finally, and perhaps of paramount importance to the success of this law, we would speak to the need for adequate funding. We urge the Congress to consider carefully the provisions of the law and then match these provisions with the funding that will be necessary to carry out the programs mandated by the law.

GOVERNMENT RELATIONS

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D C 20036 • (202) 833-4000
JOHN RYOR, President
WILLARD H. MCGUIRE, Vice-President
JOHN T. MCGARIGAL, Secretary-Treasurer
TERRY HERNDON, Executive Director

STATEMENT OF

LAURA FOUNTAIN

OF THE

INDIANA EDUCATION ASSOCIATION

Proper implementation of the purpose of the Act is insured by Parts A through F. We therefore would urge Congress to reauthorize and fund Parts C through F.

Five reasons for program continuance and funding are:

1. Too often we have seen that when the money situation in the education community becomes a serious problem, the immediate effect is on special programs. Sometimes these programs are those which are special to the regular education student such as elementary music, art and physical education. However, more often they seem to be those programs touching students who are handicapped. Perhaps one less school psychologist, or one less speech, language and hearing therapist, or two to three more students per classload for each teacher of the mentally retarded, or the choice between an occupational therapist or a physical therapist rather than both--I could go on forever--but, these are examples of moderate cutbacks due to dollar shortage. We believe that every student who is handicapped has the right to a free appropriate public education.

2. The Individualized Education Program is something that special education teachers have for a long time used with students who are handicapped, but they have indeed "carried it in their heads" rather than placed it in writing. In order to assure the rights of parents and of students who are handicapped, Congress has now required this

to be developed as a team effort and placed in written form. This will require special inservice research and training of professionals.

3. In order that the reality of "full appropriate public education" for all students who are handicapped ever be reached, there are two minimum requirements--personnel and equipment. Both of these cost money. The same money that has previously been denied to special students for education may once again be denied through state/local funding procedures. Federal money, which will fund excess cost, will indeed become an incentive to states and allow the education of students with handicaps to progress. Federal funding will also help to assure that the rights of students who are handicapped will be protected, as well as to reaffirm federal awareness and responsibility in this area of education.

4. Our particular concern with Least Restrictive Environment is that the regular education teacher and the regular education students be (1) protected and (2) prepared for the appropriate approach to the student who is handicapped. Some of our concern centers around the need for regular education teacher preparation and regular education student preparation in the areas of knowledge, understanding and, therefore, acceptance of the student who is handicapped. Another concern just as great is the need for a close working relationship to be established between the regular education teacher and the special education teacher in regard to curriculum, methods, materials, special

services, special equipment, etc., needed in the regular classroom so that the student who is handicapped may indeed receive an appropriate education. Still another concern is that we feel the student who is handicapped may not be placed in a classroom that is overcrowded, or undersized in area, or not appropriately equipped, etc., so that the end result will be that a decision is forced onto the teacher to choose between quality education for one student or a group of students, or mediocrity for all.

Our hope is that Least Restrictive Environment will be a comfortable, understandable, tolerable, acceptable and appropriate placement for all--the parent, the student who is handicapped, and the special teacher, as well as the regular education teachers and students.

5. The sometimes heard statement that "we don't have to comply if we don't apply" has been more than adequately answered by Section 504 of the Rehabilitation Act of 1973 for those students covered by PL 94-142. First of all, the SEA and LEA should become committed to the education of all students with handicaps. Quality and appropriate education will then indeed follow, through the efforts of advocates for these students and the use of the procedural safeguards the Congress has built into 94-142.

nea

EXECUTIVE OFFICE

NATIONAL EDUCATION ASSOCIATION • 1201 16th St., N.W., Washington, D.C. 20036 • (202) 833-4000
JOHN RYOR, President
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TERRY HERNDON, Executive Director

April 6, 1977

Honorable Jennings Randolph
Chairman
Subcommittee on Handicapped
Dirksen Senate Office Building
Room 5121
Washington, D.C. 20510

Received
Date 4/11/77
[illegible]
[illegible]

Dear Senator Randolph:

I would like to thank you for this opportunity to make recommendations for insuring that handicapped Indian children receive an education equal to other handicapped children.

One of the most complex issues currently is that of jurisdiction and its many facets that affect the delivery of services to handicapped Indian children. We recognize that the states have the responsibility to provide a free and appropriate education for any child within state boundaries. However, in the case where Indian lands exist that question becomes more complicated.

To lessen the complexity of the question, we recommend that the tribes, the states, and the Bureau of Indian Affairs work cooperatively to resolve the problem of providing adequate services to handicapped Indian children. It is our belief that the tribes should be given the opportunity to determine whether the state or the BIA will provide the services, or the state and the BIA jointly.

A review of the BIA's 1978 budget proposal for school operations shows no request for increased funding for the education of handicapped Indian children. It seems highly improbable that the BIA will be in compliance with the provisions of PL 94-142 by the beginning of the 1978 school year. This situation will mean that the BIA will rely on funds that have been used in the past for special education.

With these factors in mind, we therefore recommend that there be an increase in appropriations of $19 million specifically earmarked for special education in the BIA schools.

Mr. Chairman, we feel that our recommendations will only begin to implement the proper services that to date have been sorely lacking for handicapped Indian children in BIA schools.

Sincerely,

Willard H. McGuire

Willard H. McGuire
Vice President

Senator RANDOLPH. Our next witness is Mr. John A. Nesbitt.

Mr. Nesbitt, if you will identify yourself and your organization, you may proceed.

Sometimes it is helpful for us to have even a little more than just the name of the organization.

STATEMENT OF JOHN A. NESBITT, PRESIDENT, NATIONAL CONSORTIUM ON PHYSICAL EDUCATION AND RECREATION FOR THE HANDICAPPED, UNIVERSITY OF IOWA, IOWA CITY, IOWA

Mr. NESBITT. My name is John Nesbitt, and I am president of the National Consortium on Physical Education and Recreation for the Handicapped at the University of Iowa in Iowa City.

The National Consortium on Physical Education and Recreation for the Handicapped is composed of physical education and recreation educators, researchers, and service personnel throughout the United States.

I want to thank the Senator and the committee for the opportunity to appear at these hearings. I have submitted a full statement to the subcommittee. I wish to present a summary of that statement.

Senator RANDOLPH. The complete statement will be made a part of the printed record at the conclusion of your testimony.

Mr. NESBITT. Thank you very much, Senator.

Recreational, cultural and leisure participation is just as important for the person who is handicapped as it is for the person who is not handicapped. For literally millions of people who are handicapped—the unemployable and the part-time employed—leisure participation is more important to the handicapped person than to the nonhandicapped.

For handicapped children, after hours and weekends may be as important as the classroom hours in terms of total social growth and development. And during the school years handicapped children must gain leisure skills that will make appropriate, satisfying leisure participation possible throughout the adult years. It should be noted that there are today 2 million unemployed handicapped living up to 13 hours of enforced leisure a day.

We who have worked in therapeutic recreation service for many years see recreation for the handicapped as a human right. Not only is recreation a human right, recreation and therapeutic recreation service are a rehabilitation necessity. Logically, no treatment or rehabilitation plan for the ill and handicapped is complete without attention to successful recreation and leisure settlement.

Economically, we see recreation and leisure providing means of employment for ill and handicapped. We are attempting to anticipate specific leisure manufacturer and service occupation to the handicapped and vocational rehabilitation workers.

The professional specialization that provides services to people who are ill or handicapped is called therapeutic recreation service. Basically, therapeutic recreation service is the delivery of specifically designed and adapted recreational experiences that: (1) contribute to enhanced functioning (affective, cognitive or motor) of the ill and handicapped; (2) contribute to the leisure functioning and fulfillment of the ill or handicapped individual; and (3) contribute to medical, educational, vocational, or social rehabilitation of handicapped individuals.

The therapeutic recreation service movement is committed to supporting Public Law 94-142 in its entirety. We in the National Consortium have been working to develop plans and design procedures that will fulfill the law. We are confronted with a serious dilemma.

As we formulate strategies and plans to deliver the promise of Public Law 94-142 to 8 million handicapped children, it becomes absolutely clear that we lack the professionally prepared personnel, we lack research and demonstration on delivery of therapeutic recreation service in relation to Public Law 94-142, and we lack the technical assistance capacity to deliver needed services to 50 States.

Thus, this statement is an urgent appeal for immediate support in order that we may move quickly and decisively to fill these gaps.

Only 5 percent of the Nation's handicapped children and youth are receiving therapeutic recreation service, 7.6 million handicapped children are not receiving therapeutic recreation service which is set forth in Public Law 94-142.

I have some recommendations.

To support the development of adequate therapeutic recreation service, community recreation service and leisure opportunity in support of IEP, and mainstreaming for America's eight million handicapped children, $6 million is needed for a 3-year intensive effort in inservice training, professional preparation at four levels, technical assistance, technical information, demonstration and research.

I strongly recommend that funds be authorized to be used in the following activities:

1. Program assistance grants;
2. Special project grants;
3. Research and demonstration grants;
4. Incentive grants; and
5. Regional technical assistance centers.

The program assistance grants now provide for some 18 therapeutic recreation M.A. level programs. It is imperative that the PAG's be expanded to provide model training programs at the A.A., B.A. doctoral levels.

The special project grants have provided for special national training and/or special projects such as aquatics for handicapped, recreation for deaf/blind and statewide inservice training for local recreation personnel in New Jersey. The New Jersey project is needed immediately in every State in the Union in the interests of the implementation of Public Law 94-142. The special projects grant activity must be expanded.

The research and demonstration grants in the Bureau of Education for the Handicapped for therapeutic recreation service have been limited to around $100,000 a year for 6 years. Funding for R. & D. must be expanded immediately with particular emphasis on demonstration projects which relate directly to implementation of Public Law 94-142 such as demonstration of leisure assessment as part of the individual educational (assessment and) program, demonstration of integration and mainstreaming recreation and parks, demonstration of leisure education curricula, demonstration of leisure counseling, and therapeutic recreation service delivery.

Incentive grants should be provided to local and State recreation agencies toward the goal of integration and mainstreaming.

Regional (multi-State) center technical assistance for at least a 33-year period is a critical need in light of Public Law 94–142, and the needs that the individual States will have.

I strongly urge that either the physical education and recreation advisory committee be reinstated for a full 33-year period, or the physical education and therapeutic recreation service both be represented on the National Advisory Committee for the Handicapped. It is imperative that the National Advisory Committee for the Handicapped be continued, and that its support be significantly increased.

Finally, I wish to take this opportunity to acknowledge the great initiative and the great inspiration and the great service that you and this committee have rendered to meeting the needs of our Nation's handicapped. Be assured that I place myself at the complete disposal of the subcommittee in any way I can be of assistance.

Thank you.

Senator Randolph. Thank you, Mr. Nesbitt.

We recall that when we had a prior bill we had Billy Kilmer, Washington Redskins quarterback, speaking in some general terms about certain specifics which you, in your full statement, cover.

This year the subject of recreation for the handicapped has been called to our attention again by our distinguished colleague, Senator John Culver of Iowa, who was tops in gridiron starring during his college days, too. I do not know whether he was ever in pro football, but at least he would be eligible by his ability.

And now, as we further consider the therapeutic treatment program, and as we consider the physical education aspects, all of this becomes important, not so much through the writing of legislation, but through the drafting of regulations within the Department of Health, Education, and Welfare.

So I believe that we will wish to direct our attention to the witnesses for the administration tomorrow on this specific point.

I noted that you were speaking of Iowa as ranking among the lowest in the Nation in the use of Federal aid for therapeutic recreation services for the handicapped.

Now, is there any rating, State by State, on this particular part of services to the handicapped? Do you have a breakdown? Could it be gotten together? Can that be done, or are you speaking because of your intimate knowledge of Iowa?

Mr. Nesbitt. I am speaking from my intimate knowledge of Iowa, Senator. I believe that the kind of information that you are asking for can be collected. I would be pleased to try to assist the Committee in pulling that information together.

Senator Randolph. Well, that would be helpful. I am sure that you would have the cooperation of the agencies within the States—certainly, the States of Senators Stafford and Hatch—in that. Utah will not be too difficult. Vermont is a small State but a great State, and it will help you, too. West Virginia is not too large and it will certainly help you. Of course, I guess Utah is spread out a little, Senator Hatch.

But seriously, this is a very real problem. The therapeutic, recreation, and physical education aspects of the bill are very important. As you know, with any bill, the intent of Congress can be sometimes lessened by the Administration, or it can be emphasized.

I think that it is important that your testimony and your complete remarks be made a part of the printed record.

Senator Stafford?

Senator Stafford. Thank you, Mr. Chairman.

I agree generally with what you have been saying, and I simply want to express my appreciation to you, Mr. Nesbitt, for helping us in our deliberations as we go forward to extend the programs for the handicapped youth in particular, and handicapped people generally in this country.

Thank you very much.

Mr. Nesbitt. Thank you.

Senator Randolph. Senator Hatch?

Senator Hatch. Thank you.

I am very happy to be with these two fine Senators on this program today. I did not hear your statement, but I have been reading it. And it appears to me that what you are doing is not only credible, but a necessity.

You know, we have to provide opportunities for recreation and enjoyment for handicapped people.

I am rather new on this committee, but I am wondering this. Is there a great effort being put forward to work with all of the local school systems and colleges which have various recreational opportunities, such as swimming pools, and basketball courts, et cetera? Is there an effort to work with the institutions, which have these great facilities that might be utilized on certain occasions for these people?

And also, the National Park Service and other Government organizations might be able to provide many, many activities of worthwhile merit to the people who are handicapped, I should think.

Mr. Nesbitt. No. 1, your question about what is happening at the local level to work with the schools and local resources—well, I think I would stay with my 5-percent figure of participation. That is to say, well, about 5 percent of local recreation and park departments are responding in a limited fashion to the recreation needs of handicapped children—of school aged handicapped children.

Senator Hatch. That is about as high across the board as it would be?

Mr. Nesbitt. I am afraid I must answer yes.

Senator Hatch. What would be the highest area?

Mr. Nesbitt. What you have, of course are a few very good programs. San Francisco, for example, has the Recreation Center for the Handicapped, which is an extraordinary facility and program—but that program is very unique, and serves 500 or 700 people.

Here in Washington, D.C., there is an outstanding program being developed for the handicapped through the Washington, D.C., Parks and Recreation. And in Miami-Dade, and a few spots in Illinois, there are some. But these are standout programs. They are very much the exception, rather than the rule.

Senator Hatch. They are all too few?

Mr. NESBITT. They are very few, and they reach a very limited population, although they are outstanding programs. So I would think that across the board, about 5 percent is the kind of response that we are getting from park and recreation departments.

Senator HATCH. When you say about 5 percent, do you mean 5 percent of the communities involved?

Mr. NESBITT. Yes.

Senator HATCH. How many total handicapped? What percentage of the handicapped will receive some benefit from local community response?

Mr. NESBITT. I would say Senator, 5 percent.

Senator HATCH. Only 5 percent of all of those who are handicapped?

Mr. NESBITT. Five percent of those who are handicapped are being served by recreation and park departments. And I would not say there were more than 5 percent of the total recreation and park departments that are reaching out to the handicapped.

Senator HATCH. While we are on this point, Mr. Chairman, of course I am new to this committee, but do we have any tie-ins from Federal Government assistance programs requiring a certain amount of effort be put forth to aid the handicapped with public facilities?

Senator RANDOLPH. Yes, indeed.

Senator HATCH. We do? Are they working?

Senator RANDOLPH. Well, I sincerely hope so.

Senator HATCH. It appears to me they are not working.

Senator RANDOLPH. In some instances, I do know where they are working. We can certainly explore it further, Senator Hatch.

Senator HATCH. Maybe it would be very important when we hold the hearings, Mr. Chairman, to determine just what level the communities are providing for these people. I say that because I agree with this gentleman, and of course, many others like him—and I know you do—that there needs to be an all-out effort to provide a better quality of life for people who are handicapped. And I know you are making that effort on this committee.

I would like to know from people such as yourself, as well as leaders in the handicapped field in this country, what are the areas in which we would be able to bolster you. Perhaps we should hold hearings to determine if these Federal programs and expenditures are properly utilized to assist those who are handicapped.

Mr. NESBITT. May I respond to the second part of your question, which is what is happening with Federal recreation facilities and resources?

Senator HATCH. Yes.

Mr. NESBITT. On October 21, in Boston, the Architectural Barriers and Transportation Compliance Board held public hearings on accessibility for handicapped. This was primarily the issue of physical accessibility.

And it is my judgment of the hearings that I listened to, Senator Hatch, that Federal compliance is very, very low. We might be talking about 10 or 15 percent of Federal compliance.

Now, we do have some information that——

Senator HATCH. Do you have any reason for that? Do you have any opinion as to why it is so very low?

Mr. Nesbitt. Well, this was fully studied, and one of the reasons that comes up is it is costly to make facilities accessible for the handicapped. But we have information that suggests——

Senator Hatch. Well, do we not have the money set aside to make these accessible?

Mr. Nesbitt. Do we not have the money set aside?

Senator Hatch. Yes.

Mr. Nesbitt. Well, I would say that budgets for facilities have not been established with a line item that says make it accessible. And the information we now have on making parks and recreation facilities and areas accessible that it only costs about 1 percent of the total cost of the project.

It costs only 1 percent, but for many years people have said it would be very, very expensive to make the facility accessible. And that has been one of the primary problems. We are now satisfied that it only costs 1 percent, however.

Now, that was the Federal level. Many of the people we heard from at those hearings were reporting on Federal facilities and resources. And the response was not positive, people were constantly explaining why they had not complied with Federal laws.

Senator Hatch. What seemed to be the major reasons?

Mr. Nesbitt. Well, the second reason after costs, will be lack of design guidelines, and "know-how" on how to make the facilities and resources accessible to the handicapped. That will be the second primary reason.

The third reason that will probably come out is that they have no knowledge or awareness of handicapped people who really want to participate in these facilities and areas. Historically we have not seen handicapped coming to the various parks, wanting to get in, and so consequently they assume they are not around, and they do not want to come.

Senator Hatch. Well, I cited the parks as only a limited illustration. I think the major areas have to be the local high schools, junior high schools, elementary schools, and the public parks in the various communities. But I still think there ought to be some efforts put forward to have other Federal agencies, agencies that are devoted to recreational pursuits for the American people, provide the means whereby the handicapped can have some enjoyment of those recreational aspects.

Mr. Nesbitt. I agree with you totally on the public education facilities.

Of course, these hearings were on recreational areas and facilities. And when we were working through this whole problem—well, Senator, you talked also about local communities.

The best opinion that we could come up with was something like only 10 percent of local and State recreational areas and facilities are accessible for the handicapped. So I think really the leadership on the thing is going to come from the Federal agencies and programs complying with the Federal law, Senator, that all facilities and areas must be accessible. And I think if that is so, then the State and local agencies will start to comply also.

Senator Hatch. OK.

Mr. Nesbitt. Senator, back to your earlier question, we did a limited survey about 5 years ago of the funding on a State-by-State basis.

And what we can do is—because our programing has advanced considerably since then—is we can redo that survey in various ways and come back to you with some specific information.

Senator HATCH. I would like to have that.

You seem to conclude that there needs to be an effort, at least at the Federal level, to provide professionally prepared personnel, research, demonstration, and technical assistance in this area.

Do you have any suggestions for us? I take it in your recommendations basically that would be your set of suggestions.

Mr. NESBITT. Yes, Senator, there are six areas of recommendations there. Five of them are spelled out there. Then in the full paper I describe them more. And then if we go back to the hearings of March 30, 1976, Senator, there was larger elaboration of those kinds of general recommendations.

Senator HATCH. I would like you to send me as much of that as possible, will you?

Mr. NESBITT. I certainly shall. And in part, the training and technical assistance in the research and development, Senator, will help us to carry out what we want to do with Public Law 94-142 in this whole recreation and leisure area.

Senator HATCH. So you are saying actually there are about 2 million unemployed handicapped who are living up to 13 hours of enforced leisure per day?

Mr. NESBITT. That is accurate.

Senator HATCH. That is accurate?

Mr. NESBITT. Yes, sir, it is.

Senator HATCH. We appreciate what you are doing. I appreciate your answering these few questions. But I would like you and anybody else interested in helping to educate me, sir, to send me all the information you possibly can in this area.

Mr. NESBITT. I would be very pleased to.

[The prepared statement of Mr. Nesbitt and additional material submitted for the record follows:]

February 24, 1977

Received
Date 3/16/77
Subcommittee on
The Handicapped

File: Models (PL 94-142)
In Relation to Senate Bill 725
Hearings, Mar. 21-22, 1977
"A Bill to Extend Certain
Programs Under the Education
for Handicapped Act"

"Therapeutic Recreation Service Needs Related to Handicapped Children"

Statement of

The Needs of Handicapped Children and Youth for Therapeutic Recreation Service
Professional Preparation, Research and Demonstration and Technical Assistance

Submitted by

John A. Nesbitt, President
National Consortium on Physical Education and Recreation for Handicapped
University of Iowa, Iowa City, Iowa 52242

Presented to

Senator Jennings Randolph, Chairman
Subcommittee on the Handicapped
Senate Committee on Human Resources
U. S. Senate Office Building
Washington, D. C. 20510

Introduction

It is a privilege to present this statement on behalf of the National Consortium on Physical Education and Recreation for the Handicapped.

Previously, you received testimony from Dr. William Chasey, a specialist in physical education, who serves as a director of a project currently being conducted by the National Consortium. The project is directed to providing training and technical assistance nationally in physical education for handicapped children.

In contrast to the statement on physical education, this statement will address the total cultural, recreational and leisure needs of our eight million children and youth who are handicapped and the problems and needs that confront therapeutic recreation service.

Background

Recreational, cultural and leisure participation is just as important for the person who is handicapped as it is for the person who is not handicapped. For literally millions of people who are handicapped - the unemployable and the part time employed - leisure participation is more important to the handicapped person than to the non-handicapped. Leisure participation for the handicapped person may be the central focus of that person's life.

For handicapped children the after hours and weekends may be as important as the classroom hours in terms of total social growth and development. And, during the school years handicapped children must gain leisure skills that will make appropriate, satisfying leisure participation possible throughout the adult years. It should noted that there are today 2,000,000 unemployed handicapped living up to 13 hours of enforced leisure a day.

We who have worked in therapeutic recreation service for many years see recreation for the handicapped as a human right. Not only is recreation a human right, recreation and therapeutic recreation service are a rehabilitaion necessity. Logically, no treatment or rehabilitation plan for the ill and handicapped is complete without attention to successful recreation and leisure settlement.

Economically, we see recreation and leisure providing means of employment for ill and handicapped. America is living in a "leisure age" in which the consumption of leisure goods, products and services is over $150 billion annually and "Leisure" is a major growth sector in our economy. We are attempting to anticipate specific leisure manufacturer and service occupation needs and pass this information on to the handicapped and vocational rehabilitation workers. We are trying to anticipate the manpower market in terms of jobs for handicapped.

The professional specialization that provides services to people who are ill or handicapped is called therapeutic recreation service. There are standards for professional registration (about 1,500 registered personnel exists), there are standards for professional preparation and a limited number of colleges and universities offer courses or programs, and there are standards for the delivery of services to schools for mentally retarded, to hospitals for mentally ill and to rehabilitation centers as well as guidelines for the provision of recreation services in special education schools, in community education programs for handicapped, and so on.

Basically, therapeutic recreation service is the delivery of specifically designed and adapted recreational experiences that: 1. contribute to enhanced functioning (affective, cognitive or motor) of the ill and handicapped. 2. contribute to the leisure functioning and fulfillment of the ill or handicapped individual; and 3. contribute to medical, educational, vocational or social rehabilitation of handicapped individuals.

Specifically, therapeutic recreation service and leisure participation contributes one or more of the following to the ill or handicapped individual.

- Compensates limitations
- Educational gains
- Vocational experience
- Community settlement skills
- Personal fulfillment
- Political fulfillment
- Personal compensation
- Rehabilitation plan support
- Aggression reduction
- Quality of life enhancement
- Purposeful focus for life

The basic leisure activities are:

- Aquatics/Swimming
- Crafts
- Cultural/Ethnic Activities
- Arts/Graphics
- Dance
- Drama
- Entertainment
- Education Activities
- Fitness
- Leisure Education
- Leisure Counseling
- Leisure Careers Education,
- Leisure Careers Guidance
- Mental and Literary Games, Activities
- Outdoor/Nature Activities
- Music
- Social/Organizational
- Special Events
- Sports - Individual, Non-competitive
- Sports - Individual, Competitive
- Sports - Team, Competitive
- Travel/Tourism
- Voluntary Service

Public Law 94-142 and the Dilemma in Recreation for Handicapped

Everyone who has contributed in any way to the advancement of Public Law 94-142 takes great satisfaction in what is happening. Of course, professional personnel as well as parents and handicapped children themselves are confronted with significant new challenges and problems as all seek out avenues and pathways to follow in pursuit of the ultimate goals of Public Law 94-142. If there has ever been a labor of love, this surely is that labor of love.

I must report, however, as a national spokesperson for the professional specialization of therapeutic recreation service that Public Law 94-142 does pose for us unsettling problems.

The therapeutic recreation service movement is committed to supporting Public Law 94-142 in its entirety, the letter of the law and the spirit of the law. We in the National Consortium have been working to develop plans and design procedures that will fulfill the specifics that are called for in delivery of therapeutic recreation service, leisure education, in-service training and so on. We are confronted with a serious dilemma. As we formulate specific strategies and plans to deliver the promise of Public Law 94-142 to eight million handicapped children it becomes absolutely clear that we lack professionally prepared personnel, we lack research and demonstration on delivery of therapeutic recreation service in relation to Public Law 94-142 and we lack the technical assistance capacity to deliver needed services to 50 states.

Thus, this statement is an urgent appeal for immediate support in order that we may move quickly and decisively to fill these gaps.

Needs - Personnel, Research and Demonstration, Technical Assistance

I wish to state the needs to which we are addressing ourselves, to the support being provided and to the immediate needs that confront us.

Needs

Only five (5) percent of the nation's handicapped children and youth are receiving therapeutic recreation service. 7,600,000 handicapped children are not receiving therapeutic recreation service which are set forth in Public Law 94-142.

The major barriers to professional development are:

A. Professionally Prepared Personnel

    1. Lack of direct service personnel, associate and baccalaureate.
    2. Lack of advanced level personnel, masters and doctoral level.

B. Lack of Research and Demonstration.
C. Lack of Technical Assistance.

A. Lack of Professionally Prepared Personnel

From Aide through Administrator there are only about 20,000 people working in leisure service for handicapped in the U.S. Only 1,500 hold professional ratings making them eligible to provide service under Public Law 94-142. There is a need for technical information for 20,000 (approximately 400 per state), in-service training for 10,000 (approximately 200 per state), masters level preparation for 500 (approximately 10 per state), and doctoral level preparation for 50 (approximately 2 per state).

B. Lack of Research and Demonstration

In the period 1945 to 1977 there have been no more than 10 research and demonstration projects supported by the U. S. Rehabilitation Services Administration and the U. S. Bureau of Education for the Handicapped that have dealt directly with the delivery of therapeutic recreation service. (This writer reported to the Subcommittee in March 1976 a listing of some 30 projects supported by the U. S. RSA; but, only eight of those dealt with therapeutic recreation service delivery per se as contrasted with a project that dealt with recreation activity, for example, research on a recreation or recreation related activity as a potential vocational area for employment of a handicapped person. The U. S. BEH has sponsored no more than two projects that have dealt with delivery of therapeutic recreation service.) Clearly, assessment of leisure functioning will necessarily be a component of the Individual Educational Program for eight million handicapped children and research and demonstration does not exist on state-local delivery of services which will directly relate the leisure assessment component to the IEP, integration of handicapped and mainstreaming, etc. It is critical that this be undertaken immediately.

C. Lack of Technical Assistance

No more than 10 states have a professional therapeutic recreation consultant (in extension, aging, resources, or education) working full-time. Further, these individuals are related primarily to one delivery systems, e.g. aging or extension. State level technical assistance for planning, coordination, and development is a critical need. My estimate is that all states taken together are 80 percent non-functional in therapeutic recreation technical assistance. (A basic survey of 50 state extension services and major Federal Agencies relative to rural recreation for handicapped technical assistance and major Federal agencies now in process bears out this estimate.) A state such as Iowa ranks among the lowest in the nation in the use of Federal aid for therapeutic recreation service for handicapped. Regional Technical Assistance Centers could provide state services such as advisory and planning, in-service training, local program development consultation, planning and preparation of funding applications, operational studies, etc. A major goal could be to assist states in developing their own state level technical assistance resources. These Regional Technical Assistance Centers would coordinate regional in-service training, professional preparation (AA, BA, MA, DR.) and research and demonstration as well as provide technical assistance.

A plan providing eight regional centers, each serving six to ten states, would provide technical support for the implementation of Public Law 94-142.

Recommendations

To support the development of adequate therapeutic recreation service, community recreation service and leisure opportunity in support of I.E.P. and mainstreaming for America's eight million handicapped children, six million dollars is needed for a three-year intensive effort in in-service training, professional preparation at four levels, technical assistance, technical information, demonstration and research.

I strongly recommend that funds be authorized to be used in the following activities:

1. Program Assistant Grants
2. Special Project Grants
3. Research and Demonstration Grants
4. Incentive Grants
5. Regional Centers (technical assistance)

1. The Program Assistance Grants now provide for some 18 therapeutic recreation M.A. level programs. It is imperative that the PAG's be expanded to provide model training programs at the AA, BA and doctoral levels.

2. The Special Project Grants have provided for special national training and/or special projects such as aquatics for handicapped, recreation for deaf-blind and statewide in-service training for local recreation personnel in New Jersey. The New Jersey project is needed immediately in every state in the union in the interests of the implementation of Public Law 94-142. The Special Projects Grant activity must be expanded.

3. The Research and Demonstration Grants in the Bureau of Education for the Handicapped for therapeutic recreation service have been limited to around $100,000 a year for six years. Funding for R&D must be expanded immediately with particular emphasis on demonstration projects which relate directly to implementation of Public Law 94-142 such as demonstration of leisure assessment as part of the Individual Educational (assessment and) Program, demonstration of integration and mainstreaming recreation and parks, demonstration of leisure education curricula, demonstration of leisure counseling, and therapeutic recreation service delivery.

4. Incentive Grants should be provided to local and state recreation agencies toward the goal of integration and mainstreaming.

5. Regional (multi-State) Center Technical Assistance for at least a three-year period is a critical need in light of Public Law 94-142 and the needs that the individual states will have.

Advisory Services to the Bureau of Education for the Handicapped

It has been brought to my attention that there is consideration of discontinuing the National Advisory Committee for the Handicapped. In general, I believe it is very important that developmental programs and services rendered by the Federal Government have some means of receiving formally advice and guidance from the general public, from consumers who in this situation would be people who are handicapped, from professionals and from service agencies. At the present time I see a critical need for this advice relative to the areas of physical education and therapeutic recreation service. You will recall that Public Law 90-170 provided for the establishment of a National Advisory Committee on Physical Education and Recreation for Handicapped Children. The purpose of the Committee was to advise the Secretary of the Department of Health, Education and Welfare. The Committee was established, drew up a report in a short period and ceased its activities after serving only a few months. I appreciate the goal that President Carter is pursuing in cutting expenditures by reducing formal advisory functions. But, I believe that now is not the time for reduction of formal advisory functions relative to education, therapeutic recreation and physical education for handicapped children. Thus, I strongly recommend that either the physical education and recreation committee be reinstated for a full three-year period as was originally intended or that physical education and therapeutic recreation service both be represented on the National Advisory Committee for the Handicapped. In light of the enormous need for assistance that the Bureau of Education for the Handicapped will have in the immediate future in implementing Public Law 94-142, it is imperitive that the National Advisory Committee for the Handicapped be continued and that its support be significantly increased if it is to be able to function in a manner commensurate with the enormously increased responsibilites that it must necessarily have in advising the Bureau relative to the new program.

Concluding Comments

There is additional information which I wish to share with you and the Subcommittee. First, I am enclosing a copy of the Testimony in Washington, D.C. on Feb. 3, 1977 relative to the proposed Rules for Public Law 94-142.

Second, I believe it may be helpful to the Subcommittee if they have copies of the Report of the National Advisory Committee on Physical Education and Recreation for the Handicapped. Thus, I am requesting that Mr. Bob Holland of Ohio, chairman of the Committee, send a copy of the Report to you.

Finally, it may be of aid to the Subcommittee to review the Report on Program Review of the BEH Physical Education and Recreation Program conducted in 1974 by Dr. Ed Martin and his staff. I am requesting that if currently available and convenient that Dr. Martin send you a copy of that report.

Senator, knowing you are always interested in sharing views I am taking the liberty of sharing this statement by sending copies to Senator John Culver, Senator Dick Clark, Senator Robert T. Stafford, Dr. Ed Martin, Mr. Harold Russell, Mr. Robert Holland, Senator Edward Kennedy, Mr. John Davis of the National Recreation and Park Association, Mr. George Anderson of the American Alliance for Health, Physical Education and Recreation and Dr. Richard Kirchner of the American Association for Leisure and Recreation.

Before closing, as a 20 year relative newcomer to work for the handicapped, may I take this opportunity to acknowledge the great initiative, the great inspiration and the great service that you have rendered to meeting the needs of our nation's handicapped. With your continued great leadership, each day and each year moves our nation toward the dream you have that ours will be the first truly great and truly humanitarian civilization, a civilization where disability and suffering are reduced to an absolute minimum. Godspeed.

Please be assured that I place myself at the complete disposal of the Subcommittee in any way that I can be of any assistance. I would be honored to render service to you and the Members of the Subcommittee for the Handicapped.

SUMMARY

Recreational, cultural and leisure participation is just as important for the person who is handicapped as it is for the person who is not handicapped. For literally millions of people who are handicapped leisure participation is more important than to the non-handicapped. For handicapped children the after hours and weekends may be as important as the classroom hours in terms of total growth and development. And during the school years handicapped children must gain leisure skills that will make appropriate, satisfying leisure participation possible throughout the adult years. It should be noted that there are today 2,000,000 unemployed handicapped living up to 13 hours of enforced leisure a day.

We in therapeutic recreation service see recreation for the handicapped as a human right and a rehabilitation necessity. No treatment or rehabilitation plan for the ill and handicapped is complete without attention to successful recreational settlement.

Economically, we see recreation and leisure providing means of employment for ill and handicapped. We are trying to anticipate the leisure manpower market in terms of jobs for handicapped.

The professional specialization that provides services to people who are ill or handicapped is called therapeutic recreation service. Basically, therapeutic recreation service is the delivery of specifically designed and adapted recreational experiences that: 1) contribute to enhanced functioning (affective, cognitive or motor) of the ill and handicapped; 2) contribute to the leisure functioning and fulfillment of the ill or handicapped individual; and 3) contribute to medical, educational, vocational or social rehabilitation of handicapped individuals.

The therapeutic recreation service movement is committed to supporting Public Law 94-142 in its entirety. We in the National Consortium have been working to develop plans and design procedures that will fulfill the law. We are confronted with a serious dilemma. As we formulate strategies and plans to deliver the promise of Public Law 94-142 to eight million handicapped children it becomes absolutely clear that we lack professionally prepared personnel, we lack research and demonstration on delivery of therapeutic recreation service in relation to Public Law 94-142 and we lack the technical assistance capacity to deliver needed services to 50 states.

Thus, this statement is an urgent appeal for immediate support in order that we may move quickly and decisively to fill these gaps.

Only five (5) percent of the nation's handicapped children and youth are receiving therapeutic recreation service. 7,600,000 handicapped children are not receiving therapeutic recreation service which is set forth in Public Law 94-142.

RECOMMENDATIONS

To support the development of adequate recreation service and opportunity in support of the Education for Handicapped Act for America's eight million handicapped children, six million dollars are needed for a three-year intensive effort in in-service training, professional preparation at four levels, technical assistance, technical information and demonstration and research.

I strongly recommend that funds be authorized to be used in the following activities:

1. Program Assistance Grants
2. Special Project Grants
3. Research and Demonstration Grants
4. Incentive Grants
4. Regional Technical Assistance Centers

1. The Program Assistance Grants now provide for some 18 therapeutic recreation M.A. level programs. It is imperative that the PAG's be expanded to provide model training programs at the AA, BA and doctoral levels.

2. The Special Project Grants have provided for special national training and/or special projects such as aquatics for handicapped, recreation for deaf-blind and statewide training for local recreation personnel. The Special Projects Grant activity must be expanded.

3. The Research and Demonstration Grants in the Bureau of Education for the Handicapped for therapeutic recreation service have been limited to around $100,000 a year for six years. Funding for R&D must be expanded immediately with particular emphasis on demonstration projects which relate directly to implementation of Public Law 94-142.

4. Incentive Grants should be provided to local and state recreation agencies toward the goal of integration and mainstreaming.

5. Regional Technical Assistance Centers for at least a three-year period are a critical need in light of Public Law 94-142 and the needs that the individual states will have.

I strongly recommend that either the physical education and recreation advisory committee be reinstated for a full three-year period or that physical education and therapeutic recreation service both be represented on the National Advisory Committee for the Handicapped. It is imperative that the National Advisory Committee for the Handicapped be continued and that its support be significantly increased.

I wish to take this opportunity to acknowledge the great initiative, the great inspiration and the great service that you and the Committee have rendered to meeting the needs of our nation's handicapped. Please be assured that I place myself at the complete disposal of the Subcommittee in any way that I can be of any assistance.

"Recreation Services for the Handicapped and Public Law 94-142"

Statement of

The National Consortium on Physical Education and Recreation for the Handicapped

by John A. Nesbitt, President, National Consortium

On

The Recreation Aspects of

Education of Handicapped Children and Incentive Grants Program, Assistance to States as published in the Federal Register, Thursday, December 30, 1976, Park IV

Submitted relative to

Public Hearing Relative to the Regulations for Public Law 94-142
(45CFR, Parts 100B, 121A, 121M)
EDUCATION FOR HANDICAPPED ACT

Mr. Thomas B. Irvin
Aides to State Branch
Bureau of Education for the Handicapped
Office of Education, ROR 3
7th & D Street, S.W.
Washington, D.C. 20202

Held February 3, 1977
Washington, D.C.

Summary of Oral Testimony
(See attachment)

I. Introduction

I am pleased to present the National Consortium on Physical Education and Recreation Statement on the Recreation Aspects of the Education of Handicapped Children and Incentive Grants Program, Assistance to States, as published in the Federal Register, Thursday, December 30, 1976, Part IV.

I wish to thank Dr. William Chasey for compiling and presenting the National Consortium Statement on Physical Education.

May I take this opportunity to urge that you consider additional consultation of resources available within the Bureau relative to physical education for handicapped and recreation for handicapped. These resources include:

1. Reports and recommendations of the HEW Secretary's National Advisory Committee on Physical Education and Recreation for Handicapped Children.
2. Reports and recommendations on leisure, physical education and recreation submitted to the BEH's National Advisory Committee for the Handicapped in May, 1976.

3. Reports, new insights and new knowledge on physical education for handicapped children and recreation for handicapped children gained through the BEH's continuing program of research, demonstration, and personnel preparation including special projects in physical education and recreation for handicapped children.

A number of the BEH staff are able to provide data, guidelines and insights on the organization and delivery of physical education and recreation for handicapped children based on these BEH supported activities.

Based on my first hand experience with the executive, advisory and program staffs of the Bureau of Education for the Handicapped, with professionsl advocates across the nation involved in the National Consortium, the National Recreation and Park Association and the American Alliance for Health, Physical Education and Recreation, and with the individuals who have been primarily responsible for the initiation and development of the physical education and recreation programs for the handicapped, I am most gratified to report that the efforts of those working with and through the Bureau have been committed to the spirit of the Education for the Handicapped Act of 1976. This committment has existed from the inception of the physical education and recreation program in 1967 down to the present time.

Physical education teachers and recreation specialists across the nation join with our colleagues in the other helping disciplines in eager anticipation of a new epoch in the evolution of philosophy and programs which will truly enfranchise all people - including people who are handicapped.

We are deeply gratified to be part of this effort and we can look to a day when the handicapped child achieves equal opportunity in employment, in education and in the cultural-recreational-leisure life of the nation.

On behalf of the members of the National Consortium on Physical Education and Recreation for the Handicapped, and more importantly on behalf of the constituency which we are all mutually dedicated to serving, the nation's handicapped children, may I take this opportunity to express our commendation to everyone who has contributed to the creation of this great new program and the new life for people who are handicapped that it guarantees.

In addition to the statements on physical education and the statement on recreation that you have from the National Consortium on Physical Education and Recreation for the Handicapped, you have received statements from the National Recreation and Park Association and the American Alliance for Health, Physical Education and Recreation. I have met with spokespersons for NRPA and AAHPER as recently as January 18, 1977, Washington, D.C.

II. Rationale

There are specific issues which I wish to address at this Public Hearing.

1. Assessment of Leisure Functioning

The individual educational assessment and program is the basis of an effective new program of special education in the United States. However, if the new law is to achieve its mandated purpose, this basic assessment must include assessment of leisure functioning. This assessment of leisure functioning will in turn influence the handicapped child's curriculum and the provision of special leisure services and programs which in turn will influence his or her life long leisure functioning and settlement in the community. Millions of handicapped adults are not employed or are employed only part-time. It is absolutely essential that attention be directed to the millions upon millions of hours of enforced leisure time that will accrue to our eight million handicapped children as they attain adulthood.

Leisure dysfunctions and deficits mean empty lifes as well as undermining rehabilitation and educational programs. The nation's eight million school age handicapped children will be joining the adult population. Their daily portion of leisure time will range from two or three hours to 12 or 14 hours depending on their vocational status. Adequate attention must be directed to the millions of hours of leisure time that will accrue to these children as they become adults. It is absolutely essential that we provide assessment of leisure functioning and attention to the leisure needs, aptitudes and abilities as a part of the regulations for individualized programs in Public Law 94-142. A basic rationale for leisure assessment and planning was presented to the Bureau of Education for the Handicapped National Advisory Committee on the Handicapped at its May 1976 meeting. This serves as an appropriate professional guide, paralleling and complementing the proposed rules and regulations in principle and methodology.

2. Therapeutic Recreation Service

a. Definition of Therapeutic Recreation Service

Therapeutic recreation service is a professional discipline recognized by helping professions as well as the Federal Government. There has been some confusion about this, particularly the matter of a definition of therapeutic recreation service. On November 9, 1973, the then Secretary of the Department of Health, Education and Welfare wrote a letter setting forth the recognized definition of therapeutic recreation service and the Federal funding that had been provided for programs of therapeutic recreation service. The Bureau of Education for the Handicapped has funded research, demonstration and personnel preparation including special projects in therapeutic recreation service. A lack of awareness of therapeutic recreation service's status as a professional discipline has partially impeded full and appropriate formulation of rules and regulations regarding recreation as mandated by Public Law 94-142. This can be corrected through the present hearings.

b. Therapeutic Recreation Personnel

A National Voluntary Registration System has been developed, which is operated by the National Therapeutic Recreation Society, a branch of the National Recreation and Park Association. The registration system functions independent of membership in either the National Therapeutic Recreation Society or the National Recreation and Park Association.

It should be noted that the National Recreation and Park Association and various state park and recreation organizations such as the California Park and Recreation Society have had under study the development and implementation of various systems of voluntary registration. However, the therapeutic recreation service registration system has been in operation for a number of years.

It should also be noted that the therapeutic recreation service registration system coincides universally with job and state and federal civil service career ladders in therapeutic recreation service.

Competency based curricula in therapeutic recreation service has been funded and training at the A.A., B.A., and M.A. levels is available across the nation.

The wording recommended for the rules and regulations recognizes therapeutic recreation service professional preparation and registration. However, there is latitude within the system to provide for registration of personnel who function at different levels based on the actual training and work experience. Thus, personnel who have training and/or experience are eligible for registration at the appropriate level. When establishing or supporting a program, personnel are employed at functional and salary levels that coincide with training and experience. This general approach will serve as an aid to supervisors and administrators and agencies in staffing programs and services.

3. Recreation Programs in School and Community Agencies

Various principles in the regulations, such as the aim of providing opportunity in the least restrictive environment, call for the provision of recreation programs in the schools and in community agencies, in particular, departments of parks and recreation. Necessairly, these programs would be staffed by personnel holding professional therapeutic recreation service registration in therapeutic recreation service based on training and experience.

4. Leisure Education

Leisure education is an important new dimension of curricula for handicapped children. Various approaches have been developed. Course materials have been prepared for specific age and disability groups. Leisure education presents itself as a primary means of addressing the leisure needs and aspirations of children and youth who are handicapped.

III. Recommendations

Section (page)	Current Wording	Recommend Change To
121a.4 Definitions. (56978)	"Related Services"..."Recreation" includes leisure education.	"Recreation" includes professional: (1) Assessment of leisure function (2) Therapeutic recreation service; (3) Recreation programs in schools and community agencies; and (4) Leisure education

COMMENTS

The draft regulation does not provide for the delivery of basic recreation programs and services currently recognized by the BEH through its physical education and recreation program of research, demonstration and personnel preparation including special projects. Further, the draft regulation is not consistent with the reports and recommendations of the HEW Secretary's National Advisory Committee on Physical Education and Recreation for Handicapped. These reports and recommendations were mandated by the Congress and preparation was coordinated by the Bureau. Finally, the draft regulation is not consistent with the reports and information presented in May, 1976, to the BEH National Advisory Committee on the Handicapped, in particular the special reports to the Committee dealing with leisure assessment and planning, therapeutic recreation for handicapped and leisure education, within the context of the present planning effort for Public Law 94-142. The definition recommended above is consistent with the development of professional recreation services for handicapped over the last 25 years and is responsive to the national commitment implicit in Public Law 94-142. This recommendation and comments are based on the recognized importance of recreation in the handicapped child's education and total life situation.

Section (page)	Current Wording	Recommend Change To
121a.26 (2) Full educational opportunity goal -- facilities, personnel, and services (56980)	(2) The number of additional personnel needed...recreation therapists....	(2) The number of additional personnel needed...therapeutic recreation personnel....

COMMENTS

The current specialization terminology endorsed by the National Therapeutic Recreation Society and used in professional registration and professional nomenclature is therapeutic recreation personnel.

121a.26 (4) (56980)	...private sheltered workshops, and other types of facilities.	...private sheltered workshops, recreational facilities and other types of facilities.

COMMENTS

The inclusion of the term recreational facilities needed in order to be consistent with the philosophy and procedures set forth in other sections.

Section (page)	Current Wording	Recommend Change To
121a.202 (a) Full educational opportunity goal. (56985)	Full educational opportunity goal... ....including art, music, industrial arts, home economics and vocational education.	Full educational opportunity goal... including art, music, industrial arts, home economics, vocational education and leisure education.

COMMENTS

There has been significant development in leisure education over the last five years, in part because of the active support of the Bureau of Education for the Handicapped. Leisure education is now an integral part of the full education opportunity goal of education for the handicapped. Thus, inclusion of leisure education is recommended.

121a.225 (a) Content of Individualized education program. (56986)	The individualized education program for each child must include... psychomotor, and self-help skills.	The individualized education program for each child must include...psychomotor, leisure functioning, and self-help skills.

COMMENTS

The handicapped child's education and his or her life during and following school must include attention to his or her ability to function in leisure -- to partake in the community's and society's recreational, cultural and leisure opportunities. No educational or rehabilitation program or service is complete without attention to the individual's leisure needs, limitations, interests, aspirations, aptitudes and skills. Thus, assessment of leisure functioning is critical to the development and delivery of appropriate recreational services and programs. Assessment of leisure functioning is wholly consistent with the specific objectives set forth in this section, i.e., level of performance, annual goals, short term objectives, services needed, etc,

121a.261 (d) Definition of "appropriately and adequately prepared and trained." (56987)	...including therapeutic recreation personnel...	No change recommended

COMMENTS

This wording is acknowledged and supported. Currently a national registration system is in operation and a number of states have developed compatible systems. The National Consortium shall encourage states to explore means of registering qualified recreation personnel.

Section (page)	Current Wording	Recommend Change To
121a.263 (f.3,i) Inservice training (S6987)	therapeutic recreation specialists....	therapeutic and community recreation specialists....

COMMENTS

It is recommended that the terms 'therapeutic and community recreation specialists' be used because this would serve to provide training for both therapeutic recreation and community recreation personnel working in community recreation programs. This terminology is also consistent with current activities and projects approved by the BEH in personnel preparation including special projects.

121a.551	Membership (State Advisory Panel)	Teachers of Handicapped Children	Teachers and Direct Service Personnel Including Therapeutic Recreation Specialists

COMMENTS

Representation as recommended is important to achievement of the aims of the law.

→ Leg. attachment 2
p.1

federal register

THURSDAY, DECEMBER 30, 1976

PART IV

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EDUCATION OF HANDICAPPED CHILDREN AND INCENTIVE GRANTS PROGRAM

Assistance to States

Attachment B
p. 2

could use the incentive grant funds to provide services only to those children who were counted to generate those monies, or (b) whether the State educational agency may determine if additional, previously unserved children are to be served with these funds. These regulations reflect the intent of the legislation by allowing the State educational agency to determine the optimal use of these funds for children ages three through five who are counted as receiving special education and related services or children who were previously unserved.

(2) A related issue was raised regarding the expenditure of equal dollars for each child. It was felt that for optimal implementation of the legislation the States should have flexibility in determining the amount spent on individual children so long as each child served is provided a free appropriate public education.

(3) An issue was raised concerning the possible use of incentive grant funds for children from birth through two years of age. Section 619 and the legislative history specify that the use of incentive grant funds is limited to children ages three through five years. However, the State's entitlement under section 611 of the Act may be used for children from birth through age twenty-one.

(4) Another issue was whether a State must be serving all handicapped children ages three through five in order to qualify for the funds. The proposed rules interpret the statute to regard as eligible those States which offer programs to any of the handicapped children in this age range. Therefore, any State which serves any portion of the three, four, or five year old handicapped population may apply.

PUBLIC HEARINGS

The Office of Education will hold public hearings on these proposed regulations at the following times and locations:

City	Date/time	Address
Washington, D.C.	Feb. 3, 1977, 9:30 a.m. to 3 p.m.	Regional Office Bldg. No. 3, Auditorium No. 3, 7th and D Sts., SW., Washington, D.C. 20202.
San Francisco	Feb. 8, 1977, 9:30 a.m. to 3 p.m.	Federal Office Bldg., 450 Golden Gate, Room 3007, San Francisco, Calif. 94102.
Denver	Feb. 9, 1977, 9:30 a.m. to 3 p.m.	Post Office Bldg., Room 269, 18th and Stout Sts., Denver, Colo. 80202.
Chicago	Feb. 10, 1977, 9:30 a.m. to 3 p.m.	Rebecca Crown Center/Hardin Hall, 633 Clark, Evanston, Ill. 60201.
Boston	Feb. 15, 1977, 9:30 a.m. to 3 p.m.	Post Office and Court House Bldg., Room 208, Boston, Mass. 02109.
Atlanta	Feb. 18, 1977, 9:30 a.m. to 3 p.m.	Board of Education, City of Atlanta, Board Room, 150 Garnett, SW., Atlanta, Ga. 30303.

The purpose of these hearings is to receive comments and suggestions on the proposed rules for consideration by the Office of Education in preparing final regulations for Part 121a. (Assistance to States for the Education of Handicapped Children) and Part 121m. (Incentive Grants program for Handicapped children ages three through five.)

In order to insure that all interested parties will have an opportunity to make comments at the hearings, the Office of Education recommends the following procedure:

(1) Each person planning to make an oral presentation should: (a) prepare a written statement of his/her comments in advance of the hearings; (b) make the presentation as concise as possible; and (c) submit a copy of the prepared statement to the Bureau of Education for the Handicapped, Office of Education, Regional Office Building No. 3, 7th and D Streets, SW, Washington, D.C. 20202.

NOTE.—If a person has extensive comments to make, it is recommended that the person's oral presentation include only a summary of the comments and that the full, written statement be sent to the above address.

(2) In presenting both oral and written statements, each commenter should (a) indicate his/her name, title, and address, (b) identify each specific subpart and section of the regulations on which comments are being made, (c) describe the concern with respect to that subpart and section, and (d) specify the recommended action to be taken.

NOTICE OF PUBLIC HEARINGS ON SPECIFIC LEARNING DISABILITIES REGULATIONS

In accordance with proposed rules on Specific Learning Disabilities, published in the FEDERAL REGISTER on November 29, 1976 (41 FR 52403), notice is hereby given that The Office of Education will hold six public hearings on these regulations. These hearings will be conducted in conjunction with the hearings on Parts 121a. and Parts 121m. to enable interested parties opportunity to comment on each of these proposed rules. The recommended procedures for making oral presentations on Specific Learning Disabilities are the same as those specified in the preceding paragraphs for Parts 121a and Parts 121m. Following are the times and locations for the hearings on Specific Learning Disabilities:

City	Date/time	Address
Washington, D.C.	Feb. 4, 1977, 9:30 a.m. to 3 p.m.	Regional Office Bldg., No. 3, 7th and D Sts., S.W., Washington, D.C. 20202.
San Francisco	Feb. 7, 1977, 9:30 a.m. to 3 p.m.	Federal Office Bldg., 450 Golden Gate, Room 3007, San Francisco, Calif. 94102.
Denver	Feb. 8, 1977, 9:30 a.m. to 3 p.m.	Post Office Bldg., Room 269, 18th and Stout Sts., Denver, Colo. 80202.
Chicago	Feb. 9, 1977, 9:30 a.m. to 3 p.m.	Rebecca Crown Center/Hardin Hall, Northwestern University, 633 Clark, Evanston, Ill. 60201.
Boston	Feb. 16, 1977, 9:30 a.m. to 3 p.m.	Post Office and Court House Bldg., Room 208, Boston, Mass. 02109.
Atlanta	Feb. 17, 1977, 9:30 a.m. to 3 p.m.	Board of Education, City of Atlanta, 150 Garnett, S.W., Atlanta, Ga. 30303.

WRITTEN COMMENTS

The Office of Education invites written comments and recommendations on these proposed regulations. All written materials should be sent to: Bureau of Education for the Handicapped, Office of Education, Room 3018 Regional Office Building No. 3, 7th and D Streets, SW, Washington, D.C. 20202.

The written comments should (1) include the name, title, address, and telephone number of the commenter, (2) identify each specific subpart and section of the regulations on which comments are being made, (3) describe the concern with respect to that subpart/section, and (4) specify the recommended action to be taken.

Comments received in response to the notice will be available for public inspection at the above office Monday through Friday between 8 a.m. and 4 p.m. All relevant material must be received on or before March 1, 1977.

All comments written and oral will be reviewed by the Office of Education and considered in preparation of final regulations.

Questions about these proposed regulations may be addressed to Mr. Thomas B. Irvin, at the above address, or by phone (202) 245-9405.

The United States Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB circular A-107.

(Catalog of Federal Domestic Assistance Number 13.449, Handicapped Preschool and School Programs.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

Approved: December 22, 1976.

MARJORIE LYNCH,
Acting Secretary of Health,
Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100b—STATE ADMINISTRATED PROGRAMS

1. In Part 100b, § 100b.17 is revised to read as follows:

§ 100b.17 General applications.

(a) The general application of a State must meet the requirements of section 434(b)(1)(A) of the General Education Provisions Act.

(b) A State does not have to resubmit its general applications.

(20 U.S.C. 1232c(b)(1)(A).)

(c)(1) The following statutes require that a State must submit certain provisions to the Commissioner which are similar to provisions in the general application.

(2) Subject to paragraph (d) of this section, if the Commissioner has approved a State's general application, the State does not have to submit the provi-

SUMMARY OF ORAL TESTIMONY

On behalf of the National Consortium on Physical Education and Recreation for Handicapped, I wish to commend the U.S.O.E. and the B.E.H. for its efforts in developing these rules and regulations. Relative to the physical education aspects of the law and regulations, the Consortium is conducting a national Special Training Project on Physical Education. The director of this project, Dr. William Chosey, is presenting the National Consortium statement on physical education on today's agenda.

I wish to present now the National Consortium Statement on the Recreation Aspects of law and regulations.

I wish to summarize this statement as follows:
1) The definition of recreation is inadequate. The definition should read: "Recreation" includes professional (1) Assessment of of Leisure Functioning, (2) Therapeutic Recreation Service, (3) Recreation Programs in Schools and Community Agencies, and (4) Leisure Education.
2) In reviewing the proposed rules and regulations, it is of basic importance to meeting the needs of all eight million handicapped children at all levels of function and to providing skills that will last a lifetime, and it is imperative, that the Panel consider the following:
a. Reports of the Department of H.E.W. Secretary's National Advisory Committee on Physical Education and Recreation for Handicapped Children. I would point out that the Secretary of H.E.W. on Nov. 9, 1973 also announced a definition of "therapeutic recreation service" which has been the basis of Federal programming and funding by the Vocational Rehabilitation Administration, the Social Security Administration, and Developmental Disabilities as well as the Bureau of Education for the Handicapped.
b. Reports on leisure, recreation and physical education for handicapped children formally received by the B.E.H.'s National Advisory Committee for the Handicapped in May, 1976.
c. Experience gained by the B.E.H. through its physical education and recreation program of research, demonstration, and professional preparation including special projects. I estimate that $10 million has been used and used very effectively in a modest effort, since 1967 when Title V, "Physical Education and Recreation Training for Handicapped Children" of the M R Amendments was passed. Further, I urge that this Panel study also the programs and funding of physical education and recreation through the Aid to States program. I estimate this program to encompass some $15 million in physical education and recreation programming that is acknowledged as being some of the most effective service delivery provided to handicapped children by special education as well as other rehabilitation disciplines.
Generally, an appropriate definition of recreation is a fundamental necessity based on:
a. past legislation for physical education and recreation for handicapped;
b. House and Senate Committee Hearing Reports including the expressed direct comments on leisure and recreation; and
c. the physical education and recreation experience of the Bureau itself.

3) I wish to draw the Panel's attention to the fact that leisure time and leisure have been, are, and will be an enormous factor in the life of the handicapped child and the handicapped adult. Thus, it is critically important that assessment include assessment of leisure functioning.

Specifically, I encourage the following changes in the proposed rules:

Section	
121a.4	"Recreation" includes professional: (1) Assessment of leisure functioning, (2) Therapeutic recreation service, (3) Recreation programs in schools and community agencies, and (4) Leisure education.
121a.26	Use the term "Therapeutic Recreation Service"
121a.26	Include "recreational facilities"
121a.202	Include "leisure education"
121a.225	Include assessment of "leisure functioning"
121a.263	Use the terms "therapeutic and community recreation specialists"
121a.551	Include "direct service personnel including therapeutic recreation specialists".

I append a photo copy of the Secretary of the Department of Health, Education and Welfare letter of November 9, 1973.

121a.551	Membership (State Advisory Panel)	Teachers of Handicapped Children	Teachers and Direct Service Personnel Including Therapeutic Recreation Specialists

COMMENTS

Representation as recommended is important to achievement of the aims of the law.

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THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

Attachment A
page 1

November 9, 1973

Mr. Harold Russell
Chairman
The President's Committee
on Employment of the Handicapped
Washington, D.C. 20210

Dear Mr. Russell:

Thank you for your letter of August 10 (your Ref. 44) concerning the field of therapeutic recreation and its role in the delivery of health, education, and social services to disabled persons. Please accept my apology for the delay in responding.

Therapeutic recreation is essentially a process which utilizes recreation services for purposive intervention in some physical, emotional, or social behavior in order to bring about a desired change in that behavior and to promote the growth and development of the individual. Therapeutic recreation is based on a process which utilizes the development of recreational skills to assist in the achievement of overall service goals defined for the disabled individual. When provided by personnel qualified by appropriate training and experience, therapeutic recreation services contribute directly to building the disabled individual's physical strength, emotional growth, and social self-confidence.

The recreational therapist generally works cooperatively and in support of other rehabilitation specialists. It has been primarily through the professional training of qualified manpower that this Department has expressed its recognition of the therapeutic rehabilitation modality. Training in therapeutic recreation has been supported under the Vocational Rehabilitation Act for those interested in working with disabled adults and under the Education for the Handicapped Act for those planning to work with disabled children in special education settings.

Although therapeutic recreation may not be specifically identified as a health-related service under the regulations for social services to be issued for Titles IV and XVI of the Social Security Act, recreational services are so recognized in other service programs administered by this Department. Under the newly enacted Rehabilitation Act of 1973, a rehabilitation facility is defined in a number of ways, including a facility "...which provides... prevocational conditioning and recreational therapy." This means that facilities primarily providing therapeutic recreation services are eligible for Federal or State vocational rehabilitation agency support.

Attachment A
page 2

The Older Americans Comprehensive Services Amendments of 1973 include recreational services as optional social services within a comprehensive and coordinated service system for older persons. Similarly, in service programs for the developmentally disabled, recreational services are also considered one of the authorized services for which funds can be expended in order to promote a developmentally disabled youngster's physical health and social interaction.

We very much appreciate your interest in therapeutic recreation services, and we want to assure you that we share your concern that these important supportive services be available where they are needed.

Sincerely,

Caspar W Weinberger
Secretary

Senator **Randolph**. Senator Hatch, following through on your intense interest in this subject, I recall in the 1973 act—that is, the amendments to the rehabilitation law—that we certainly did begin to place an emphasis on the need for equipment and personnel. We found that we have the necessary equipment, but we do not have the trained personnel skilled in using the equipment with the handicapped. That has been the situation.

Senator **Hatch**. Do incentives exist to get people to go into this type of training.

Senator **Randolph**. Pat, do we have such incentives in the law?

Mrs. **Forsythe**. Yes, sir. Under part D of the Training and Professional Personnel in the Bureau of Education for the Handicapped, Mr. Chairman, they do award colleges and universities training grants to prepare personnel for physical education and recreation activities.

Senator **Hatch**. Do you know how much is spent on that, approximately?

Senator **Randolph**. We will get that specific information and make that a part of the record.

Senator **Hatch**. Would we do that, please? I think it is important for us to see that.

You know, this is an important area.

Senator **Randolph**. That will be done.

[The information referred to follows:]

TRAINING OF PERSONNEL IN PHYSICAL EDUCATION AND RECREATION

Information supplied by the Bureau of Education for the Handicapped indicates that since 1969 there has been a total of $8,780,000 spent on preparing personnel in the areas of physical education and recreation. During fiscal year 1977, $2,100,000 was allocated for this purpose. Approximately $1,000,000 was targeted to recreation, and $1,100,000 was directed towards preparing special education teachers in physical education.

Senator **Hatch**. One thing that has been very educational for me is that I had a brother-in-law who was disabled. Learning to understand the problems encountered by him, as well as those encountered by a number of other friends of my family and neighbors with similar problems, has been of immense benefit to me. In an attempt to further understand these problems, during the last campaign I got into a wheelchair and wheeled myself all around Salt Lake City.

After doing that, I had a little more insight as to some of the problems facing our handicapped citizens. I am very concerned with the lack of seeming response in our society today toward people who really cannot do an awful lot for themselves in these areas, and whose quality of life is considerably less than that of the non-handicapped. Maybe sometimes we put the emphasis the wrong way.

In any event, I would like to have all the help you can provide. I would certainly appreciate having the members of this committee—the chairman of this committee, and certainly the ranking member of this committee—help me out in an understanding of this whole area.

I know we will try to do what we can to assist you, Mr. Nesbitt.

Mr. **Nesbitt**. Senator, if I could respond?

I think there is about $600,000 a year going into this physical education and recreation training. Primarily it is at the master's level.

Senator **Hatch**. Is that all there is?

Mr. NESBITT. $600,000 a year. There is about $200,000 a year going into special projects, such as the recreation for the deaf and blind and aquatics for the handicapped. There is about $200,000 in the total research effort. So this is a very small program.

Senator HATCH. That would be a very small program. I do not think we can offset the number of handicapped by that.

In other words, we are getting more handicapped each year than that program would offset.

Mr. NESBITT. What I tried to suggest here in terms of funding for a program, Senator, was a very modest and realistic move forward.

Senator HATCH. What do you think that would consist of?

Mr. NESBITT. Well, that amounts to $1 million a year. And what I am suggesting in the testimony is that that be increased to $3 million a year, so that we can start to put together strategies and plans.

Senator HATCH. That would be very, very modest. So you are going from——

Mr. NESBITT. From $1 million to $3 million.

Senator HATCH. Well, that sounds reasonable to me. Mr. Chairman, you know more about it than I know, but——

Senator RANDOLPH. Well, I do not want to speak in figures at the moment, because as you know, we do face some priority problems with funding. Let us take the UMTA program for a moment, and the need to provide a bus which has facilities to make it accessible to the handicapped. It is a worthy program, a necessary program, and money must be spent there.

I am faced always, as you are, with the need to take a realistic look at what we are doing. As members of this Subcommittee on the Handicapped we certainly have this need, because we work for the handicapped and we plan for the handicapped and we attempt to influence the Senate in its actions. We listen to a broad spectrum of people who come here and who are working experts in these fields and at times we run into some situations where we have to take a very close look at what we are doing. I am sure you share that feeling.

Senator HATCH. That is correct.

Senator RANDOLPH. We must not shortchange handicapped persons.

Senator HATCH. That is correct, but the programs have to be workable programs, also. They should not shortchange the taxpayer either.

I am wondering if maybe we should give some incentives, if they are not already being done—to the various communities to provide their own facilities and services. Why can we not have them ascertain and find out what is available, and then provide their own facilities and services for the handicapped on a reasonable basis, and one that fits in with the needs of their communities, so that more than one person rides that bus?

But the incentives would be to provide maybe central area locations, and maybe provide incentives to local charitable groups to drive these people to, let us say a high school program, where they can get some aquatic advantages, and so on.

So I am wondering if this is being done or not. I wonder if, from the use of the money standpoint, Mr. Nesbitt, we should not get more incentives into this, and also get more people in training.

I cannot see how you can train very many people on $600,000 a year in college today. Maybe that is where the incentives should be.

If you get the people trained, why they will start these nonprofit groups to provide assistance, and they will then benefit from any Government programs.

I just throw out those suggestions.

Senator RANDOLPH. Well, they are excellent suggestions, Senator. They are very valid recommendations. There are two colleges with which I am associated in West Virginia, that provide swimming programs with an emphasis on aid to the handicapped. The programs are not confined to those persons who are enrolled in the colleges in question. Representatives from the colleges go out into the community and attempt to help those persons who could be assisted by therapeutic recreation treatment.

Mr. NESBITT. Senator, may I make one more comment back to Senator Hatch's question very briefly?

The needs are overwhelming in this whole recreation and leisure and participation for the handicapped. However, I want to report on the positive side that the people from the Park Service and the Forest Service have been working with the Committee on Recreation and Leisure of the President's Committee on Employment of the Handicapped, and they have attempted to do something in 286 Federal Parks across the country.

Now, what they have done may mean removing a curb, or putting in a water fountain and so on, but they have made some effort. This is not 100 percent accessibility for the handicapped, Senator Hatch, but they have made some effort along those lines.

Also, recently they came to the Committee on Recreation and Leisure of the President's Committee on the Handicapped and said, "OK, these are our goals for the year 2025, and what should we do about the handicapped?"

And we did respond. So there are efforts being made. But in large part we are talking about a $600,000 training program, which is very miniscule, and is just one dimension of this whole thing of what we need to do.

Senator HATCH. Well, I appreciate your comments. As I say, I am aware that the National Park Service and others are trying to make facilities more and more accessible to the handicapped, and I commend them for that effort. I do not know that they can ever make them 100 percent accessible. I do not think that is possible. And I think the costs would outweigh the actual benefits if you could. But there are areas where we can provide for the handicapped better than we have in this society.

I think the billions and billions of dollars that we have poured down the drain on a daily basis in this country, which does not really benefit anybody, and creates a self-servicing group of people in our society, could be better directed. We have the greatest country in the world, but sometimes it does not do all it can for those who are handicapped.

In fact, it never does all it can for those who are handicapped. But we appreciate some assistance and help from you people who are the experts in the field. I am sure that is why you are here.

And this paper, which you have given us this morning, will certainly assist me, but I would like to ask for more assistance, because I am trying to work hard to see if we can arrive at some additionally fruitful programs for the handicapped. And I will do that, hopefully by working with my colleagues, who are already leaders in this area. And I hope we can try to do some good for the people who, I think, suffer a great deal more than they need to.

Mr. NESBITT. We are completely at your disposal.

Senator RANDOLPH. Thank you, Senator Hatch.

Recently, I visited Disney World in Florida. I particularly checked on what they were doing in an attempt to take care of those handicapped persons who were coming to what to me is one of the wonders of the entertainment world. Anyone who can go there should go there, regardless of whether you are 8 or 80, and then go back again and again.

I found a very impressive and progressive program at Disney World, which is a private concern. They were thinking in terms of not just another ticket at the gate, but in terms of taking care of people who are handicapped or elderly.

They are very innovative and very creative. That is what I hear Senator Hatch asking for; he is asking for creativity, as well as the knowledge necessary to do the job.

Mr. Nesbitt, we appreciate your coming here and being so very helpful.

Thank you.

Mr. NESBITT. Thank you very much.

Senator RANDOLPH. Our next witness is Phyllis Wyeth.

STATEMENT OF PHYLLIS WYETH ON BEHALF OF ARTS AND THE HANDICAPPED ADVISORY TASK FORCE TO THE WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS; THE PRESIDENT'S COMMITTEE FOR THE EMPLOYMENT OF THE HANDICAPPED; AND THE NATIONAL COMMITTEE ON ARTS FOR THE HANDICAPPED, ACCOMPANIED BY WENDY PERKS, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE, ARTS FOR THE HANDICAPPED, INC.

Ms. WYETH. Thank you.

Senator RANDOLPH. Good morning, Phyllis.

Ms. WYETH. Thank you very much for having me here, Mr. Chairman and members of the committee. I was expecting Wendy Perks to join me, but I guess she is a little late, and was not able to make it.

My name is Phyllis Wyeth and I am testifying today on behalf of the Arts and the Handicapped Advisory Task Force to the White House Conference on Handicapped Individuals, the President's Committee for the Employment of the Handicapped, and the National Committee on Arts for the Handicapped.

I am also very active in my local community of Wilmington, Del., in the area of handicapped children. Recently I have started a school for children with learning disabilities.

I am pleased today to have the opportunity to point out to you the importance of the arts in the lives of all Americans, regardless of their physical, mental or emotional disabilities. The arts are particularly important in the lives of the handicapped persons because they offer aesthetic, creative, educational, therapeutic and vocational experiences which enhance both their learning and enjoyment.

The arts are also noncompetitive, exclude no one, and encourage the integration of handicapped individuals with the nonhandicapped public.

Furthermore, the arts provide handicapped persons with career opportunities. We are all, by nature, endowed with intrinsic qualities, and no one has the right to draw a demarcation line to divide human beings into those who shall receive all possible attention in their development, and those who are not worth our efforts.

One of these intrinsic qualities is the endowment of every human being with creative spirit. The arts may be the handicapped person's first chance for achieving a goal, his first step toward success in other areas of learning, the first sign that his life will have meaning and personal significance. The arts can also be the first means of communication with the autistic child.

The satisfaction of this experience came to me personally while I was working at the Terry Center with autistic children in Wilmington, Del. These children had never talked nor communicated with any human being. It was through our music program that we succeeded in encouraging the children to hold hands together for the first time, and to stamp out a rhythm with their feet. This was a tremendous breakthrough. Music became the vehicle for future communication.

These children showed us how music helps them to read and count; how video-taping enables them to explore and document their world and sharpen their communication skills; how movement and dance increase their awareness of mind, and physical activity; how games provide a challenge to independent thought and action.

It is significant that both House and Senate committees have stressed the value of developing artistic and cultural programs for handicapped children. The Senate Committee on Labor and Public Welfare stated:

> The use of the arts as a teaching tool for the handicapped has long been recognized as a viable, effective way not only of teaching special skills, but also of reaching youngsters who had otherwise been untouchable. The committee envisions that programs under this bill could well include the arts in programs for the handicapped funded under this act. Such a program could cover both appreciation of the arts by the handicapped youngsters, and the utilization of the arts as a teaching tool per se.

Therefore, if handicapped children are to benefit from arts experiences, I propose that regulations for the Education for all Handicapped Children Act be amended as follows:

That the arts be included among the programs described under "related services:"

That a separate section on the arts, similar to the special section on physical education, be written into the act mandating arts activities for handicapped students;

That the list of recommended facilities used by handicapped children include cultural facilities;

That a handicapped child's educational opportunities include visual and performing arts experiences; and

That art educators, art therapists, and artists be included among the groups requiring in-service training for the education of handicapped students.

A more specific wording for amendments to the proposed regulations for Public Law 94-142 follows, which I will not present personally to the committee, but will submit for the record.

Thank you very much for giving me this opportunity.

Senator STAFFORD. Thank you very much for joining us and helping us in our hearings and deliberations this morning.

We will place the proposals for definitions, which you have attached to your remarks, in the record in full at the conclusion of your testimony.

Without objection, that will be done.

Ms. WYETH. Thank you.

Senator STAFFORD. I think I need a little education this morning, along with Senator Hatch.

Last week I ran into a very attractive young woman and her husband. She told me she was a musical therapist, which was a new term to me. It may be well known to many people, but it is new to me. If you are familiar with it, could you tell us what a musical therapist is?

Ms. WYETH. Well, when I was teaching at the Terry Center in Delaware, we worked with these autistic children that had never spoken a word. They were about 6 and 7 years old. The first way that we began to reach these children was by using music to contact them.

We finally were able to get the individual children together as a group, and to hold hands, and stamp a rhythm. It was one way that we used as a testing method to see if they were retarded, or autistic. We were able to show them how to fingerpaint, and we succeeded in getting them to mold forms in clay. We used all of this as a teaching device. It gave the children a feeling of accomplishment.

Senator STAFFORD. Thank you, for the chairman, who is out of the room necessarily for just a moment, for presenting this testimony.

Could you comment on whether or not there are enough personnel and programs to provide the experiences in the arts for the handicapped children, and if there are not enough, could you give us some idea of how many more we might need?

Ms. WYETH. Excuse me, I missed the first sentence of your question. You asked how much financial——

Senator STAFFORD. No, let me ask the question again, but a little louder.

Are there enough personnel and programs to provide the experiences you have been discussing in the arts for handicapped children? And if there are not enough, could you give us some thought on how many more we need?

Ms. WYETH. Well, that is why I am here. There definitely is not enough. At the National Endowment, I know they have an artist in the school program. I do not know exactly and precisely how much they put into this program.

In HEW there is education in the Bureau of the Handicapped. I know they are very limited in this area. The whole attitude really is that the arts is a recreation, and that it is not a teaching tool.

And, obviously reading, writing and arithmetic comes first. But here is Wendy Perks, who is a little late, but maybe she can help me in answering that more precisely, if she is more up to date on it.

Senator STAFFORD. We would be glad to have her comments.

Ms. PERKS. I am with the National Committee of Arts for the handicapped. We took a survey in 1975–76 that indicated out of the approximately 8 million handicapped children in this Nation, Senator, approximately 12 percent were now receiving arts programs in their regular schooling.

It is difficult to take a sampling, as you are well aware, of the number of handicapped children in our schools, but this was taken nationally. We are gathering new statistics, and the percentages seem to be about the same. So that is statistically the kind of program that is now available.

We know from talking to people that many art teachers refuse to have handicapped children in the classrooms, and that many handicapped children are isolated from the arts programs completely. So it is a matter of attitude reversal as well as programs.

Senator STAFFORD. Thank you very much.

Senator Hatch?

Senator HATCH. I could not agree with you more, Phyllis. I do not think you know very much about me—as I do not know much about you, I guess—but I was one of the founders in Pittsburgh, Pa., of the Parents' League for Emotional Adjustment, and this was for the emotional adjustment of emotionally disturbed children. And the reason I got involved was because of a lady who had an autistic child, and the schools refused to allow him to attend school. So I was his attorney, and we went to the school board there and said, "We'll, he is going to attend school whether you like it or not." And he did.

And their contention was that he should be placed in a room with all other autistic children and there be given whatever therapy or treatment they could give.

Her contention was the only way ever for him to come out of this autism, or at least to have any kind of progression from it would be to be around normal children.

And, of course, that had all kinds of concomitant problems, as you know.

Well, not only did he eventually go to this school, but we started this particular group. I do not know where it stands today, but I know it has done an awful lot of good for emotionally disturbed children. But her son is now capable of doing many, many things as a young man that he just would not have been able to do if he had not been able to attend the school. He was just a boy back then.

But, now, as a young man, he is doing many more things than he could ever have done if she had not brought this suit for her son to be around normal children.

Now, I was reading your proposed amendments to the act. And although I cursorily read them, they look very adequate and very proper to me. And I think music is a great educational form.

If more people had music, we would have more sensitivity in our society today. And not only that, but music helps a person to achieve education in many other ways, as you say.

So we will look at this language very carefully and maybe we will be able to do something for you there, because I do not know of anything in this world that will bring more sensitivity and direction concerning the meaningfulness of things, Phyllis, than good music and good art and good artistic type programs.

Maybe if the person cannot dance, maybe he can dance with his fingers or do other things in a beat to music or other forms of artistic expression that might help him to open up or might help him to progress.

Now, in this particular success story I was telling you about, everybody I have talked to—all the scientists and so on, and I have talked to a number of them—indicate it is almost impossible to do much for autistic children.

But, in this particular case, as I say, it not only turned out that she did a great deal for this autistic child, but many others who were helped by this. He is now functioning in society, which could never have occurred without this mother's attitude.

I did not know much about it then, but I had an inward feeling that you have to put autistic children with normal children or else they are going to remain totally autistic and with not much hope for the future.

I understand that in this case some of the children in the school, although they thought he was very difficult to put up with, but they started to change their attitudes about handicapped people and they started to be helpful and they started to want him to succeed.

When he did achieve certain areas of success, it was meaningful to everybody there.

So, in this case, it was not just this one handicapped boy who was particularly helped there, but it was all who were around him.

All I can say is that I commend you for what you are trying to do. And I hope that within the bill we can include some of your language. I do not personally know of any better education than a balance between music and learning, unless it is a balance with athletics, too. I think both are essential in quality of life.

I just hope we can do something to help you.

Ms. WYETH. Thank you very much.

Senator STAFFORD. Thank you very much, Senator Hatch and thank you, Ms. Wyeth, for being here, and you, Ms. Perks, for being here.

And, of course the name "Perks" in this town is often confused with the perquisites Senators are supposed to have but I have seldom found.

[The prepared statement of Ms. Wyeth follows:]

TESTIMONY

SENATE SUB-COMMITTEE ON THE HANDICAPPED
OVERSIGHT HEARINGS

PUBLIC LAW 94-142

HONORABLE JENNINGS RANDOLPH
CHAIRMAN

ON BEHALF OF:

ARTS AND THE HANDICAPPED ADVISORY TASK FORCE TO THE
WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

THE PRESIDENT'S COMMITTEE FOR THE EMPLOYMENT OF THE HANDICAPPED

NATIONAL COMMITTEE ON ARTS FOR THE HANDICAPPED

STATEMENT OF

PHYLLIS WYETH

MARCH 21, 1977

My name is Phyllis Wyeth, and I am testifying today on behalf of the Arts and the Handicapped Advisory Task Force to the White House Conference on Handicapped Individuals, The President's Committee for the Employment of the Handicapped, and the National Committee on Arts for the Handicapped. I am also very active in my local community of Wilmington, Delaware, in the area of handicapped children. Recently I have started a school for children with learning disabilities. I am pleased today to have the opportunity to point out to you the importance of the arts in the lives of all Americans, regardless of their physical, mental, or emotional disabilities. These disabilities are particularly important in the lives of handicapped persons because they offer aesthetic, creative, educational, therapeutic, and vocational experiences which enhance both their learning and enjoyment. The arts are also noncompetitive, exclude no one, and encourage the integration of handicapped individuals with the non-handicapped public. Furthermore, the arts provide handicapped persons with career opportunities.

We are all by nature endowed with intrinsic qualities, and no one has the right to draw a demarcation line to divide human beings into those who shall receive all possible attention in their development and those who are not worth our efforts. One of these intrinsic qualities is the endowment of every human being with creative spirit. The arts may be the handicapped person's first chance for achieving a goal, his first step toward success in other areas of learning, the first sign that his life will have meaning and personal significance. The arts can also be the first means of communication with the autistic child. The satisfaction of this experience came to me personally while I was working at the Terry Center with autistic children in Wilmington, Delaware. These children had never talked or communicated with any human being. It was through our music program that we succeeded in encouraging the children to hold hands together for the first time, and to stamp out a rhythm with their feet. This was a tremendous breakthrough. Music became the vehicle for future communication. These children showed us how music helps them to read and count; how video-taping enables them to explore and document their world and sharpen their communication skills; how movement and dance increase their awareness of mind and physical activity; how games provide a challenge to independent thought and action.

It is significant that both House and Senate committees have stressed the value of developing artistic and cultural programs for handicapped children. The Senate Committee on Labor and Public Welfare stated: "The use of the arts as a teaching tool for the handicapped has long been recognized as a viable, effective way not only of teaching special skills, but also of reaching youngsters who had otherwise been unteachable." The Committee envisions that programs under this Bill could well include the arts in programs for the handicapped funded under this Act. Such a program could cover both appreciation of the arts by the handicapped youngsters, and the utilization of the arts as a teaching tool per se." Therefore, if handicapped children are to benefit from arts experiences, I propose that regulations for the Education for All Handicapped Children Act be amdnded as follows:

That the arts be included among the programs described under "related services";

That a separate section on the arts, similar to the special section on physical education, be written into the act mandating arts activities for handicapped students;

That the list of recommended facilities used by handicapped children include cultural facilities;

That a handicapped child's educational opportunities include visual and performing arts experiences; and

That art educators, art therapists, and artists be included among the groups requiring in-service training for the education of handicapped students.

A more specific wording for amendments to the proposed regulations for Public Law 94-142 follows, which I will not present personally to the Committee but will submit for the record.

Thank you very much for giving me this opportunity.

Subpart A - General

Section 121a.,4 Definitions

"Related Services":

(1) Include "the arts," "arts activities" and "art education program" in the definition of "Related Services."

(2) Define "the arts" as those activities including, but not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution and exhibition of such major arts forms, and the study and application of the arts to the human environment.

(3) Define "arts activities" as those programs which include, but are not limited to, (a) programs which use the arts to foster self-development, communicative skills, aesthetic awareness and appreciation and enjoyment of the creative process; and (b) programs which use community cultural facilities to foster the appreciation and participation of the arts.

(4) Define "art education program" as a program in which the arts are an integral part of elementary and secondary school curricula.

Subpart B - State Annual Program Plans and Local Application

Section 121a.26 Full Educational Opportunity Goal - Facilities, Personnel and Services

(1) Add "cultural facilities" to the types of facilities to be identified in the statistical description required to be included in each state annual program (paragraph (b) (4)).

Subpart C - Services

Section 121a.202 Full Educational Opportunity Goal

(1) Under "Program options" broaden the arts related programs and services available to handicapped children to include "all the visual and performing arts," not only "art, music and industrial arts" as presently stated in the proposed regulations.

(2) Under "Non-academic services" include "cultural activities" among the non-academic and extracurricular activities listed.

New Section to be added: 121a.205 Arts Education

Add a new section under Subpart C - Services entitled "Arts education" with the following descriptive statements modeled closely after the section (121a.203) devoted to "physical education."

(1) Arts education must be made available to every handicapped child receiving a free appropriate public education.

(2) Each handicapped child must be afforded the opportunity to participate in the arts education program available to nonhandicapped children unless:

(a) the child is enrolled full-time in a separate facility;

(b) the child needs specially designed arts education or arts therapy as prescribed in the child's individualized education program; and

(c) the parents and the public educational agency agree that the child should not participate in the regular program.

(3) If specially designed arts education is prescribed in a child's individualized education program, the public agency responsible for the education of that child shall provide the services directly, or make arrangements for them to be provided through other public or private programs.

(4) The public agency responsible for the education of a handicapped child enrolled full-time in a separate facility, (or who is not able to participate in the regular arts education program), shall take steps to insure that arts eudcation provided to that child is comparable to the services provided to non-handicapped children.

Section 121a.225 Content of Individualized Education Program

(1) Require that the statement of specific education services needed by the handicapped child include arts education as one of the special education and related services needed to meet the unique needs of the handicapped child.

Section 121a.263 Inservice Training

(1) Specify that artists, art educators and art therapists are among the professionals eligible for inservice training programs for personnel engaged in the education of handicapped children.

Senator STAFFORD. The Chair will now invite Mr. and Mrs. Frank Selelyo from Dayton, Ohio, to come forward.

STATEMENT OF MR. AND MRS. FRANK J. SELELYO, DAYTON, OHIO, ACCOMPANIED BY JOHN M. SELEYO

Mr. SELELYO. Thank you, Mr. Chairman.

Senator STAFFORD. On behalf of the subcommittee, it is our pleasure to welcome you both here. In fact, I see we have three of you. And we will invite you to respond in whatever way you wish.

If you wish to comment in summary form on the statement which we have, we will invite you to do that, and we will place the entire statement in the record if that is your wish.

If you wish to read it, you may do so. Whichever way you wish, you may proceed.

Mrs. SELELYO. I would rather read it if I may.

Mr. Chairman and members of the committee, my husband and I deeply appreciate the opportunity to be here today as ones who are personally involved with experiences that violates the rights of the mentally retarded citizens.

Our only son, Michael Francis, is 4 years old, and has Downs' syndrome with a serious heart defect which is inoperable. We also have my husband's brother, John M. Selelyo, who is mentally retarded, staying with us since November 22, 1975. Michael and John are with us today.

Our personal experiences are mostly related to John, who had lived for 31 years at Polk State School and Hospital, Polk, Pa.—now called Polk Center—since November 14, 1944, until November 22, 1975. John was denied reasonable medical, dental, education services, and personal care and needs. I will now expand on these denials:

(*a*) The lack of medical services is evident by the fact that John arrived at our home in Dayton, needing surgery for a serious double hernia and an ingrown toenail. On the day, November 22, 1975, we brought John to Dayton, we were informed by the doctor at Polk Center that John was in good health and were given a memo from the doctor which stated that John had medical care available anytime needed and that he is very suggestible when questioned about his health. She stated that John wanders around ad lib wherever he cares to go. This medical memo was not very helpful to our family doctor for it did not state significant information about his medical life.

(*b*) The lack of dental care is shown by the fact that our family dentist, after examining John, stated that John has periodontal disease, or trench mouth, resulting in the loss of bone and gum tissues which was very extensive throughout the entire mouth. This was contributed to by a lack of proper dential hygiene and proper cleaning of the teeth by the dentist at Polk Center.

If John would have continued to receive such treatment for the next 10 years, John would have lost all of his teeth. John is missing five teeth, and I am sure that if he was given the proper care, there would be five fillings instead of missing teeth. John was a very cooperative patient for the dentist on his visits to have his teeth cleaned—took two visits—and to have the roots of a tooth removed.

Polk Center's memo did not give us very much information and did not have records of his visits or X-rays. The memo stated that John was seen by the dentist whenever he complained of pain, and that John was a very uncooperative patient.

I recommend that institutions hire professional personnel who will have empathy for the mentally retarded citizens' handicaps. Also that the mentally retarded citizens be given the proper dental care of at least a yearly checkup and to insist upon supervision and assistance in brushing their teeth.

(*c*) The lack of education can be seen by the fact that John was not able to speak in simple sentences, but used crude sign language or just mumbeld. He did not know his colors, numbers, nor was he capable of performing simple skills, such as working of puzzles, motor coordination skill. In fact, we were not given any information about the training or programs that John participated in while at Polk. Therefore, one must draw the conclusion, after seeing John's capabilities, that he was not given any type of education.

Again, Polk Center stated that John wandered wherever he pleased to go. However, since we have moved to Greene County in August 1976, we have received tremendous cooperation and assistance from Four Oaks Community School. The principal, Mrs. Judy LaMusga, stated that John is a very enjoyable person to be with, very eager to learn, and has the capability to learn to care for himself, to relate to others, to learn the simple tasks such as colors, numbers, and to be employed in a sheltered environment.

In fact, she stated that it seems that John was not given the opportunity to habilitate himself, for he has made much progress since he has come to Dayton.

If John would have been given the opportunity to habilitate himself before, he would be so much farther ahead. She agrees that John needs speech therapy, but title I does not permit John to be included because of his age.

I recommend that title I should allow exceptions to the rule for those individuals who have been in institutions and were denied these services.

(*d*) His personal needs were taken care of at the minimal level or below minimal level. This is indicated by the fact that John had no clothes that fitted him properly, they were torn, burned by cigarettes or worn, he swallowed his food almost whole, could not bathe himself correctly—he splashed water on his face with one hand—could not wipe himself clean after a bowel movement and, therefore, had heavy soiled briefs, and many more.

Since John has lived with us, my husband and I have spent hours each day teaching him to perform all the simple tasks mentioned above and have succeeded to a great degree. In addition, now John can shave himself, make his own bed, dress himself correctly, set the table, count almost to 10, work puzzles, print the J and O of his name.

I have a more detailed list of the tasks he performed before he came and the tasks he can perform after he had received training.

It should be obvious, therefore, that Polk Center, or the institution, did not fulfill their educational function nor the basic needs were provided for John.

We are now involved with an appeal in the Commonwealth Court of Pennsylvania—John M. Selelyo versus Department of Public Welfare, Pennsylvania—over John's saved social security funds. The State of Pennsylvania insists that it should have this fund for the services that Polk Center rendered to John for his care and maintenance.

It is our contention, as evidenced by the instances I have just cited above to you, that these services were never rendered to John while at Polk Center.

We therefore firmly believe that this fund should be used to pay the bills for John's medical, surgical, dental, and personal needs that were neglected at Polk Center, but were rendered while John was living with us. In fact, the State of Pennsylvania presented a bill of $35,315.70 against the estate of John's father, and yet they refused to give a detailed breakdown of the expenditures. They used coercive tactics to settle for $3,000 of the $6,000 of the estate. Again, the money the State received from the estate was not rightfully theirs for John was denied proper care.

Just as John was denied proper care and the needed services, he is now being denied legal representation at the appeal where he is trying to prove to the State that his needs were neglected. I believe that John is being denied these legal services because the legal aid societies and Polk Center are both part of the department of public welfare and they are protecting each other.

Our experiences with a large impersonal institution and the self-serving bureaucracy of which it is a part has led us to the conclusion that the mentally retarded citizen would be served better by remaining with their families, where feasible, in foster homes or small residential homes.

From my readings, this is now being done in Michigan—Macomb-Oakland regional center program, in Nebraska, ENCOR, and in Georgia.

If the mentally retarded citizen must be institutionalized, we firmly believe that there should be strong guidelines and enforcement for the protection of the individuals at the Federal level and not the State. We know from John's experience that in institutions personal dishonesty, incompetence, and inadequacy of some employees are likely to go undetected for a long period of time. When irregularities are discovered, it is advantageous for the institution to protect itself by covering up the faults rather than facing the public wrath.

If the mentally retarded citizen must be institutionalized, then any challenge to the institution should occur outside the protective bureaucracy of which it is a part. We highly recommend that the mentally retarded citizens be given the right to be represented by private counsel of their choice and that the fees for counsel be paid by the Federal Government.

Suggestions I have made so far concerned institutionalization and my preference for placing the mentally retarded citizens in a family or family-like environment.

Now, I would like to mention ways of being helpful to people who have mentally retarded citizens at home and some of the problems they might encounter.

When our son was born, it was my husband who informed the doctor that our son was a Mongoloid—which we learned was now called

Downs' Syndrome. My husband had to beg the doctor to inform me of my son's birth defect.

We were given no information at the hospital, so we wrote to 21 different medical organizations throughout the country, and discovered from them that we have a birth defect clinic in Dayton. This information should have been made available to us by the hospital or the doctor.

I highly recommend that helpful contacts and information be made available to parents immediately after the birth of a mentally retarded child or handicapped child.

Speaking about contacts and information, it is sad that organizations involved with mental retardation and other handicaps are not very efficient in giving information and assistance. The State of Ohio Division of Mental Retardation has neglected our request for guidance and assistance since Mrs. Virginia Couchot, mental retardation specialist, left the Department in June 1976. Someone was to get in contact with us and to take Mrs. Couchot's place as soon as they were settled in their new office. To date, we have received no word from the district 2 office.

In fact, I must state that our experiences with such organizations have been one of being shuffled back and forth from one organization to another with no results or assistance.

I highly recommend that these organizations reevaluate themselves and see if they can place more emphasis on helping the individual families by directing them to the right source for assistance in their problems or needs.

When the time comes for a child to have formal education, the physical environment should be equal to that of schools being attended by "normal" children.

The schools I have visited in Montgomery County, Dayton, Ohio, were located in warehouses or old rundown houses and far away places.

I highly recommend that the mentally retarded citizens be placed in the same school as "normal" children but have special classes which will fulfill their special needs. It is also important that qualified teachers be obtained to fulfill these special needs.

If the mentally retarded citizens are not able to be placed in the regular classrooms with the "normal" children, then the mentally retarded citizens have the right to have schools built for them with the same facilities as "normal" children and not to be shoved aside in warehouses, old homes, church basements, and far out places.

I believe that the State should offer a variety of programs to the parents of mentally retarded citizens and let the parents choose the best program for their child. I know there are good programs, but they do not involve the parents as effectively as they could.

For example, in one program that Michael attended, they were doing exercises with him in order to strengthen his muscle tone but, yet, I was allowed to watch because of demanding that I see Michael at all times. The other parents could not watch. I believe that parents should be able to observe the techniques used so that reinforcement could be had at home.

It was very different in another State where I visited a school for a hour or two. I was given a tremendous amoun of information and techniques to be used in improving various skills by a registered nurse. She supplemented her demonstrations with booklets that explained the techniques in detail so that I was able to perform these tasks at home with my son. I recommend that this kind of information and demonstrations be made available to those parents who request home training and family involvement.

I have taught the primary grades for 16 years, and I do feel that I am capable of training my son. Parents with the ability to help their own children will enable the organizations to help more children who are unable to receive help from their parents because of various reasons.

The right of parents of mentally retarded citizens to have choices in their children's education also should extend to "WHEN" the child should attend school.

I have heard the rumor that there is a movement to make school attendance prior to age 6 mandatory for mentally retarded children. I am deeply opposed to this differential treatment.

Those who wish education prior to age 6 should be able to do so at public expense. Those who do not should be able to consider other alternatives without prejudice. In fact, I would like to recommend that the age for education for the mentally retarded be based on the child's mental age and not his/her chronological age.

I firmly believe that the infant and small child needs the love and care of its parents and not to be taken for 5 to 6 hours a day in order to attend school which needs head count in order to obtain Federal funded money.

The option to send the child should be made available to those parents who request that their child be away from the home because of various reasons; and those who request that their child remain at home until the child is at the mental age of 6.

In closing, I would like to comment on the cost of maintaining a mentally retarded citizen at home versus the cost of maintaining a mentally retarded citizen in an institution.

For example, if John was at Polk Center this year, he would be charged $14,965 for the year, whereas now he is living on his social security fund of $2,364 for the year. As you can see, it is far cheaper and yet John is receiving better care and is getting education. On the basis that we observed and read, it would be cheaper for the taxpayer.

Therefore, we recommend that there should be some type of tax or financial incentives to encourage more people to maintain their mentally retarded citizens in their home or community.

Another concerned area is the difficulty of obtaining life and medical insurance for our mentally retarded chitizens. We believe that these insurances should be available to them and that this committee check into the possibility that the difficulty in obtaining the insurances is the result of discriminatory practices.

I have here several folders containing correspondence and information which represents much effort and time. They pertain to our efforts to obtain rights for our son, Michael, and for John.

If this committee can consider some of the problems that I have presented and incorporate some of my recommendations into the law, I would know that it was worth the effort and time, for then it would benefit other people with retarded children.

More important, it would insure other mentally retarded citizens better treatment than that which John received at Polk Center.

I would like to share a statement made by Dr. S. M. Pueschel, Developmental Evaluation Clinic of the Children's Hospital Medical Center, Boston, Mass., in his article, "Special Report: Down's Syndrome," in Mothers' Manual, September–October 1972.

He said:

> Down's syndrome children are special children who have the same rights as other human beings, who deserve a warm and loving home environment as other children. They will return their love multifold and so may enrich the family life. They may teach others that the so highly prized "intelligence" in our culture is perhaps not the only human quality to be looked up to and cherished.

I firmly believe that this statement could be applied to other mentally retarded children.

Senator STAFFORD. Thank you very much for your statement and the experiences which you have had with your husband's brother and with your child, and your relating those to us. They will be helpful to this committee.

The committee's efforts, since I have been a member of it, and under the leadership of Senator Randolph, has been directed toward seeing that the handicapped children and handicapped people of this country do receive the equal rights to which the Constitution says they are entitled in terms of education and treatment.

And we shall continue to have that, I think, as our guiding light.

And what you have told us will help us along the way in achieving equal opportunity for all Americans, and especially those handicapped Americans who do not now get them.

I gathered from your statement that there is a lawsuit between you and the State of Pennsylvania. Am I correct in that?

Mr. SELELYO. The lawsuit is with John against the State of Pennsylvania.

They tried to make the lawsuit against me so that John would not be able to get legal aid. And I finally convinced them it was John's lawsuit and not my lawsuit. So that is where it stands now.

The legal aid people in Greene County, where we live now, have informed me that they will not represent John for the reason that John is part of our family. And since I have an income, I should pay for it myself.

There have been various reasons that have been given to us, Mr. Chairman, but seven legal services have denied us services.

Senator STAFFORD. Could you or your wife comment on the status of the Polk Center?

Is that a State-operated center?

Is it partially funded by Federal funds or all State funds, or what?

Mr. SELELYO. I believe they are receiving Federal funds for it is a State institution. There are Federal funds being appropriated to it.

Senator STAFFORD. Is the lack of care that is described in connection with the Polk Center, is that local to your area, or do you believe it to be statewide or nationwide?

Mr. SELELYO. I believe it would be nationwide. Even in the State of Ohio, we have problems of the mentally ill and mentally retarded not being treated properly.

Senator Stafford. Would your experiences and interest in the matter suggest to you whether or not there is a national lack of care along the lines you have described?

Mr. Selelyo. Yes, sir.

Senator Stafford. You believe that to be true?

Mr. Selelyo. Yes, sir.

I firmly believe that the Federal Government is the only one who could really get in and take care of it.

Senator Stafford. Would you or your wife care to comment on what specifically the additional role of the Federal Government should be?

I ask that in connection with the statements that you make on page 3.

Mr. Selelyo. I believe it should be sort of a watchdog role. My wife and I firmly believe that we should have more family and nongovernment involvement.

I believe also that the Federal, State, and local governments have mushroomed to an extent where I would like to see more involvement with the private sector; that is, taking, particularly, the State and local governments out and putting more private emphasis into all of these programs.

I believe we have the resources. I believe we have the hospitals and the nursing homes for those needing specific care. So I firmly believe that is the way we should go.

Senator Stafford. Thank you very much.

Senator Hatch?

Senator Hatch. Do you know of any other illustrations about the Polk Center?

You have listed your own personal experience, but are there other people who are complaining also?

Mr. Selelyo. I believe that Polk Center has been written up a couple of times already.

When John was residing there, there were 100 beds in the room no bigger than half of this room.

When we went up to bring him to Dayton, there were about 50. They started moving them to other State institutions. I believe there were some complaints and there were some remarks made about the care there.

Senator Hatch. Where is that located in Pennsylvania?

Mr. Selelyo. In Polk, Pa., near Franklin.

Senator Hatch. Near Franklin?

Mr. Selelyo. Yes.

Senator Hatch. That is all I have.

We appreciate your taking this time to be here.

Senator Stafford. Thank you very much for helping the committee. And, believe me, all of the members of the subcommittee will study your testimony when we begin our deliberations on legislation later on. Thank you very much.

The Chair will now invite Mr. Allen R. Cohen, president of the National Conference on Developmental Disabilities, Richmond, Va., to come forward.

He is accompanied by Linda Martin, Edward Preneta, Richard Dunn, and Beverly Jackson.

Mr. Cohen, we invite you to proceed with your colleagues in whatever way you wish, either by delivering a statement in detail or speaking extemporaneously.

STATEMENT OF ALLEN R. COHEN, PRESIDENT, NATIONAL CONFERENCE OF DEVELOPMENTAL DISABILITIES, RICHMOND, VA., ACCOMPANIED BY LINDA MARTIN, RESIDENT, SPRINGFIELD GROUP HOME, SPRINGFIELD, VA.; EDWARD PRENETA, PROGRAM DIRECTOR, UCPA OF GREATER HARTFORD, CONN.; RICHARD DUNN, CONSUMER, FAIRFAX COUNTY, VA.; AND BEVERLY JACKSON, CONSUMER, UCPA OF GREATER HARTFORD, CONN.

Mr. COHEN. Thank you, Mr. Chairman.

It is a pleasure to be here to testify before the Subcommittee on the Handicapped. I understand you have my testimony.

I would just like to highlight some areas of it and give the consumers an opportunity to present their testimony.

Senator STAFFORD. Then we will place your full statement in the record at the conclusion of your testimony.

Mr. COHEN. Thank you, sir.

I would first point out the role of the State councils that has been exemplified over the past several years, Mr. Chairman, and that is to exert more influence over the existing service delivery system in an effort to encourage coordination, the avoidance of duplication, and the inclusion of the developmentally disabled as a population to be an integral part of that system.

This has been mandated in Public Law 94–103, and the States are moving very definitely in that direction.

And then I would like to emphasize some of the statistics that have been gathered as the result of information from 26 States and one territory which responded to a questionnaire which was sent out to all of the States.

Of major importance to us is the fact that funds generated by the Federal DD dollars, above and beyond what the State formula agent has been given by Public Law 94–103, is more from the 27 States than was appropriated under Public Law 94–103 in the total formula grant program.

These funds come from many sources, emphasizing HUD programs and title XX programs, which are federally-funded programs, and they have commingled their funds with DD dollars in order to provide a comprehensive service delivery for the developmentally disabled population.

In addition to the funds generated, Mr. Chairman, there have been planning and coordination efforts with States that have, of necessity, pooled their resources to develop coordinated services.

Human and legal rights have been emphasized, and State laws have been changed and new standards established for this constituency population.

Public awareness and educational activities have led to an ever-increasing acceptance of persons with developmental disabilities. Acceptance has led to the improvement of services in terms of the quality of the services that have been so rendered.

Turf problems, which are a common characteristic within States as well as within the Federal Government, have been minimized to a certain extent, Mr. Chairman, where agencies now are speaking to each other and even planning together.

We do need continued support from the Congress in order to realize the ultimate goal of accessibility of comprehensive service delivery to all developmentally disabled citizens. We would encourage the extension of Public Law 94-103.

I would like to now introduce Mr. Ed Preneta, who will, in turn, introduce our consumer panel, which represents living testimony of the developmentally disabled service delivery network that is providing for the needs of our constituency.

Senator HATCH. We are happy to have you with us today. You are very welcome.

Mr. PRENETA. Good morning.

With me this morning are three people representing the population known as "developmentally disabled." Each of them has a statement to present.

To begin, I would like to introduce Mr. Richard Dunn of Fairfax County, Virginia.

Senator HATCH. We are glad to have you with us, Mr. Dunn. We will be very interested in your statement.

Mr. DUNN. Mr. Chairman and members of the Subcommittee on the Handicapped, my name is Richard Dunn, and I live with my parents in Fairfax County, Virginia.

I attended special education classes in public grade schools in Falls Church, Va., and I spent 5 years in a private school there. I went to Falls Church High School for my freshman year. Then I spent 2 years at the Devereux School in Pennsylvania. I finished high school back at Falls Church where I received special training in food service.

I held a couple of part-time jobs as a dishwasher and busboy near my home. I transferred to the Fairfax Op Shop where I received training in electronics assembly, packaging, mailing, and collating.

The Op Shop helped me find a job at Pulscom where I was a mechanical assembler in the production department. There I stripped wire, did cutting and bending of wire, and worked resistors, diodes and capacitors. I also tested transistors. Pulscom had several Government contracts for work, and when the contracts were finished, I was laid off.

I then returned to the Fairfax Op Shop for some more training. At that time, there was a project in Fairfax called "Operation Link." Their director spent a lot of time helping me find a new job. I understand that they ran out of funding and are now closed. They placed me as a dishwasher for the Marriott Corp. at Dulles Airport. I worked there for over 4 months when I had three seizures within 2 weeks. My seizures are very mild, consisting of a blackout of very short duration, and I do not have them very frequently. I have had only one since the ones I had on the job last November. The manager at the Marriott felt he had to let me go because he was afraid I might fall and hurt myself during a seizure.

I have talked to the Fairfax-Falls Church Mental Health and Mental Retardation Services board about living in a group home, but

I am not considered to be mentally retarded, so I do not qualify for living in a group home.

The services board now has some sheltered apartment living arrangements, but to stay there, you need a steady job so that you can pay the rent. I cannot drive a car, but I do use Metro buses.

How can I get a job which would permit me to live in an apartment before I know where that apartment will be so that I will know whether or not I will be able to get back and forth from work? I am caught right in the middle. I cannot get the job without knowing where I will be living, but I cannot live in the apartment until I have a job.

I have had two appointments with the Department of Vocational Rehabilitation since I was laid off by Marriott, but they have not been too satisfactory yet.

I have had very good education and training, and have had the best medical care available. I have undergone all possible medical treatment for epilepsy, and I see the doctor regularly and take the medication as prescribed.

Now I would like to be able to find steady employment so that I can be self-supporting and live in an apartment of my own or with a roommate.

My supervisors have said that I am a good worker. I just wish that I could convince them to let me take the risks on the job that I take at home and around town every day.

I hope that this committee can find some way for people like me, who want to work, to get steady jobs and find places to live.

Mr. PRENETA. Thank you, Richard.

Next I would like to introduce Beverly Jackson, of Suffield, Connecticut.

Senator STAFFORD. Very good. We would be glad to hear from her.

Ms. JACKSON. Good morning.

Senator STAFFORD. Good morning.

Senator HATCH. Good morning.

Ms. JACKSON. My name is Beverly Jackson. I live in Suffield, Conn. I am 28 years old.

Fifteen years ago, as with many handicapped people, I was sheltered and protected by my family. I was told repeatedly what I could and could not do. I did not have much of a life outside of school. I was not encouraged to have a social life, and I had no desire to explore what lay beyond my own world.

I attended public school and was in regular classes. There were other handicapped kids in the school system, but they were in the "special class." Even though I was not in the "special class," the students and teachers treated me as a "special" student.

Growing up with the "normal" children, I had come to expect to be treated as "special."

I first came into contact with other disabled people in a residential summer camp for the handicapped. I was 20 years old. Being in a setting where the majority of the people also had a disability was a new experience. I was no longer the one who could not do this or could not do that. It was quite an adjustment.

My camp experiences led to my involvement in the United Cerebral Palsy Activity Center, which had just been started with a developmental disabilities grant. That was 5 years ago.

I have changed. I have gained confidence in myself by handling responsibilities I have acquired. I now coordinate the residential summer camp.

I have been an officer in the Consumer Advocacy Council, which is a group of disabled adults committed to affecting social and legislative programs to benefit the disabled.

I am a member of the board of directors of United Cerebral Palsy of Greater Hartford, Conn. And I am a member of the National Advocacy Advisory Council.

I like what I have become. I no longer allow people to forbid me to do something simply because the handicapped cannot or are not supposed to do it. My new-found liberation was not easy to achieve and, at times, it is difficult to maintain.

I have demonstrated my abilities, yet I cannot find employment. My division of vocational rehabilitation did not place me in a sheltered workshop nor in competitive employment. Even if I could get a job, public transportation is not available, and rural Suffield is not architecturally accessible.

Besides, to keep my medicaid benefits, I could not earn more than $50 per month, or my benefits would be either cut off or reduced.

I received help to get where I am today. I am going to need more help to get a job and to live independently.

Thank you.

Mr. PRENETA. Thank you, Bev.

Finally, I would like to introduce Linda Martin of Springfield, Va. Linda, would you tell the gentleman where you have lived?

Ms. MARTIN. In the past, I have lived at Lynchburg. I lived at home until the age of 12. From the age of 12, I was admitted to Lynchburg Training School. From 12 until 29, I stayed there.

When I was 29, I was transferred to Northern Virginia Training Center. I stayed there until I was 31. Now, I am what you call in a group home, and there I have learned to go somewhat on my own, but really I do not belong in any kind of an institution at all.

Mr. PRENETA. Linda, would you compare Lynchburg, the Northern Virginia Training Center and the group homes?

Ms. MARTIN. I sure will.

Lynchburg Training School and Hospital was like—well, my expression is that it was like hell and back, because I had no privacy. There we were not able to communicate with the public and we were always confined to the building in one way or the other.

Northern Virginia is still somewhat like that, but I have gained a little freedom. I was always under the staff at all times. However, they said that I did not really belong there, because I had always been misjudged by other people as well. And that way I have earned my right to go to a group home, and this way I have learned to pick myself up and stand on my own two feet the best way I know how.

I know I might have a lot of disabilities, but still I am willing to fight them, no matter what.

And this statement is just a way to let you people know that us handicapped people need some help—maybe not so very much—but we want to assure you all exactly what we can do as well.

Mr. PRENETA. Where do you work, Linda?

Ms. MARTIN. I work with the Opportunities Unlimited, which is a workshop. And from time to time, whenever we have contracts which bring in money, I work there. But if we do not have a contract, and it does not bring in money, then we sit and twiddle our thumbs.

But, from time to time, I do sit down by a sewing machine and I sew a package for the Fairfax County Schools. I make 15 cents per shirt. Otherwise, I do not receive any income whatsoever, but what I make at the shop. And from there I then try to go on my own.

Mr. PRENETA. Where do you hope to live, Linda?

Ms. MARTIN. Eventually, I will receive an apartment. But also I would say that Pat Magrady and her program, they do need extra help for they do not have the staff that they really need to help build more apartments or have the money to pay the staff to do it.

I was approved for an apartment but they had to reject me for one reason, because of my medical disability. And in this way I ran into a problem because Pat Magrady has not got the help or the supervision that is needed to be with me 24 hours because I am what you call a functional diabetic and, therefore, I need the help, not all the time, but it is always cautionary to have someone there with me.

So this way, Pat Magrady does need more help and needs more staff to be with people like me as well.

Mr. PRENETA. Thank you very much, Linda.

We thank you for this opportunity to come before you at this hearing. Thank you very much.

Senator STAFFORD. Well, we really appreciate your being here and helping us to try to carry forward the work of this subcommittee.

Thank you.

The fact that we may not ask you any questions is not to be taken as a sign of any lack of interest on the part of this Senator or on the other members of the subcommittee and the full committee.

Is there anything further that any of you care to convey to the committee?

If not, again our appreciation.

Mr. COHEN. May I say one thing?

I would just like to thank these beautiful people, who have been called developmentally disabled, for coming here to testify before your committee.

Senator STAFFORD. And thank you, sir. They have our gratitude.

[The prepared statement of Mr. Cohen and additional material submitted for the record follows:]

TESTIMONY FOR SENATE SUB-COMMITTEE ON HANDICAPPED

MARCH 21, 1977

In 1970 Congress recognized the need to insure the provision of needed services to substantially handicapped citizens. One manifestation of this was the passage of P.L. 91-517 "The Developmental Disabilities Facilities and Construction Act" in which emphasis was placed on filling gaps in services to a specific group of disabled individuals. This left the burden of responsibility on the various States and the Developmental Disabilities Councils which were formed to meet the requirements of the new legislation.

Since the inception of the Developmental Disabilities program, the portion involving the formula grants to individual states has comprised the most essential elements necessary to insure the development of a comprehensive service delivery system that would be both accessible and beneficial to developmentally disabled persons. In view of the limited funding appropriated for the implementation of P.L. 91-517, the program was compelled to set priorities. Most states apportioned their funds in a "seed money" approach in order to allow services to be developed after a needs assessment was completed.

Unfortunately it took most states a few years to get the program under-way. The reasons are as varied as the states themselves with local politics playing a major thwarting role in many instances. But get under way they finally did with different areas of focus and different approaches to meet the ultimate goal of insuring needed services for their constituency population. The majority, however, did put a great deal of their energies into grants management in which individual projects and programs were funded to provide services or perhaps develop model approaches or even to research a related area of expertise. Other states utilized their monies to exert more influence over the existing service delivery system in an effort to encourage coordination, the avordance of duplication and the inclusion of the developmentally disabled as a population to be an integral part of the system.

The latter was considered by the Congress as a more appropriate role for the State Councils. With the passage of P.L. 94-103, which amended the previous legislation, a role change was mandated. The Councils now became primarily planning bodies with a strong emphasis being placed on a monitoring, evaluating and advocacy function as well.

Let us look at the impact of the State Councils for FY 1976 to see how it measures up to Congressional intent. A survey was made with 26 States and one territory responding prior to the deadline. A compilation of their statistical response is attached.

First of all it should be noted that the types of services provided include the 16 basic services designated by the DDO and in some instances even go beyond. Once again they vary between states, but maintain a certain commonality dictated by basic needs for this population.

I would next call your attention to the additional dollars expended. This amount involves funds generated by the DD program above and beyond the State formula grant. You will first note that the total for the 27 States is over $33 million which constitutes an amount in excess of the total formula grant for all the States. The source of these funds also gives greater insight into the involvement of the State Councils. A good percentage of the monies are from other Federally supported programs such as HUD and Title XX which involves a co-mingling of resources to provide the needed services. Additionally, a good deal of the funding involves State and local efforts to meet an obligation which here-to-fore has not been done.

Lastly, I would call your attention to the approximate number of developmentally disabled citizens served by the states. The 546,523 so designated merely represents the beginning of the effort to meet some of the needs of this neglected population, but I submit that the impact is being felt.

Now I would like to discuss briefly some of the intangibles that are accomplished, but do not show up in the statistics. The first of these involves the planning and coordination that has resulted in part from the DD Council efforts. States have had to pool their resources and develop coordinated service delivery approaches when it became evident that duplication and inequities existed.

Human and legal rights have come into the forefront in recent years and Councils have been very much involved in advocating for the developmentally disabled in this regard. In some instances, state laws have been changed as a result and new standards established to aid the substantially handicapped.

Public awareness and educational activities by State Councils have resulted in an ever increasing acceptance of persons with a developmental disability. Better quality and quantity of service delivery is another outgrowth of these efforts.

Overall, the advent of State State Developmental Disabilities Planning Councils and their subsequent involvement in local efforts has substantially contributed to the numerous positive changes that have taken place over the past six years. One of the most significant of these is the recognition by the populus in general of those with a developmental disability as an individual person with specific needs. In addition, there has been acceptance of the concept that appropriate services could enable substantially handicapped individuals to function in their own community.

The recognition of the moral, human, and legal rights of this constituency group has been a rapidly growing process. It has resulted in the improvement of treatment in general and the accessing of services previously unavailable.

The last change I would bring to your attention is the fact that despite existing "turf problems" some agencies are now speaking to each other. In some instances they even get involved in joint planning and coordinated service delivery.

Don't misunderstand, all the problems are not solved by any means, but a firm foundation has been built and hopefully will form the basis for increased growth along the same lines. We need the continued support of the Congress if we are to realize our goal of accessibility to a comprehensive service delivery system for all developmentally disabled citizens. This seems to be the intent of your mandate to the States in P.L. 94-103 and we pledge our support to make this a reality.

Allen R. Cohen, President
National Conference on
Developmental Disabilities

CONSUMER PANEL STATEMENTS

RESPECTFULLY SUBMITTED TO THE SUBCOMMITTEE ON THE
HANDICAPPED OF THE SENATE COMMITTEE ON
HUMAN RESOURCES

ON

OVERSIGHT OF THE "DEVELOPMENTALLY DISABLED
ASSISTANCE AND BILL OF RIGHTS ACT"

TO ACCOMPANY THE STATEMENT OF THE NATIONAL
CONFERENCE ON DEVELOPMENTAL DISABILITIES

March 21, 1977

U.C.P.A. Governmental Activities Office Washington, D.C.

Consumer Panel Members:

Richard Dunn
Fairfax County, Virginia

Beverly Jackson
Consumer, United Cerebral Palsy Association
of Greater Hartford, Connecticut

Linda Kathryn Martin
Resident, Springfield Group Home
Springfield, Virginia

Consumer Panel Moderator:

Edward Prenata, Program Director
United Cerebral Palsy Association of
Greater Hartford, Connecticut

Statement of Richard Dunn

Mr. Chairman and Members of the Subcommittee on the Handicapped, my name is Richard Dunn, and I live with my parents in Fairfax County, Virginia.

I attended special education classes in public grade schools in Falls Church, Virginia and I spent five years in a private school there. I went to Falls Church High School for my freshman year. Then I spent two years at the Devereaux School in Pennsylvania. I finished high school back at Falls Church where I received special training in food service.

I held a couple of part-time jobs as a dishwasher and bus boy near my home, and then entered the Contemporary Workshop as a trainee. I transferred to the Fairfax Op Shop where I received training in electronics assembly, packaging, mailing, and collating. The Op Shop helped me find a job at Pulscom where I was a mechanical assembler in the production department. There I stripped wire, did cutting and bending of wire, and worked with resisters, diodes, and capacitors. I also tested transistors. Pulscom had several government contracts for work, and when the contracts were completed, I was laid off.

I then returned to the Fairfax Op Shop for some more training. At that time there was a project in Fairfax called "Operation Link". Their director spent a lot of time helping me find a new job. (I understand that they ran out of funding and are now closed.) They placed me as a dishwasher for the Marriott Corporation at Dulles Airport. I worked there for over four months when I had three seizures within two weeks. (My seizures are very mild, consisting of a blackout of very short duration, and I do not have them very frequently. I have had only one since the ones I had on the job last November.) The manager at the Marriott felt he had to let me go because he was afraid I might fall and hurt myself during a seizure.

I have talked to the Fairfax-Falls Church Mental Health and Mental Retardation Services Board about living in a group home, but I am not considered to be mentally retarded, so I do not qualify for living in a group home. The Services Board now has some sheltered apartment living arrangments, but to stay there, you need a steady job so that you can pay the rent. I cannot drive a car, but I do use Metro busses. How can I get a job which would permit me to live in an apartment before I know where that apartment will be, so that I will know whether or not I will be able to get back and forth from work? I am caught right in the middle! I can't get the job without knowing where I will be living, but I can't live in the apartment until I have a job.

I have had two appointments with the Department of Vocational Rehabilitation since I was laid off by Marriott, but they haven't been too satisfactory yet.

I have had very good education and training, and have had the best medical care available. I have undergone all possible medical testing for epilepsy, and I see the doctor regularly, and take the medication as prescribed. Now I would like to be able to find steady employment so that I can be self supporting and live in an apartment of my own, or with a roommate. My supervisors have said that I am a good worker. I just wish that I could convince them to let me take the risks on the job that I take at home and around town every day.

I hope that this Committee can find some way for people like me, who want to work, to get steady jobs and find places to live.

Statement of Beverly Jackson

My name is Beverly Jackson. I live in Suffield, Connecticut. I am 28 years old.

Fifteen years ago, as with many handicapped people, I was sheltered and protected by my family. I was told repeatedly what I could and could not do. I didn't have much of a life outside of school. I wasn't encouraged to have a social life and I had no desire to explore what lay beyond my own world.

I attended public school and attended regular classes. There were other handicapped lads in the school system, but they were in the "special class." Even though I was not in the "special class" the students and teachers treated me as a "special" student. Growing up with these "normal" children, I had come to expect to be treated as "special."

I first came into contact with other disabled people in a residential summer camp for the handicapped. I was 20 years old. Being in a setting where the majority of people also had a disability was a new experience. I was no longer the one who couldn't do this or couldn't do that. It took quite an adjustment.

My camp experience led to my involvement in the United Cerebral Palsy Activity Center, which had just been started with a Developmental Disabilities Grant.

That was 5 years ago. I've changed. I have gained confidence in myself by handling responsibilities I have acquired. I now coordinate the residential summer camp. I have been an officer in the Consumer Advocacy Council, which is a group of disabled adults committed to affecting social and legislated programs to benefit the disabled. I am a member of the Board of Directors of United Cerebral Palsy of Greater Hartford. And I am a member of the National Advocacy Advisory Council.

I like what I have become. I no longer allow people to forbid me to do something simply because the handicapped can't or aren't supposed to do it! My new found liberation wasn't easy to achieve and at times it is difficult to maintain.

I have demonstrated my abilities, yet I cannot find employment. My Division of Vocational Rehabilitation did not place me in a sheltered workshop nor in competitive employment. Even if I could get a job, public transportation is not available in rural Suffield and is not architecturally accessible. Besides, to keep my Medicaid benefits, I could only earn $50 per month or find a job that would cover my medical expenses.

Supplemental Statement of Edward Prenata

United Cerebral Palsy of Greater Hartford has been in existence since 1949. For 23 years, we fluctuated between solvency and backruptcy as we operated a pre-school for multiply handicapped children and a very small summer camp program. As of 1971-72, our budget was $30,000, not including a long-standing deficit. United Cerebral Palsy of Greater Hartford faced dis-affiliation and disassociation.

In 1971, funding for direct service programs serving the developmentally disabled became available from the Connecticut Developmental Disabilities Council. United Cerebral Palsy of Greater Hartford applied for, and received, a three-year grant totalling $113,883 to develop Social and Recreational Services for the Severely and Multiply Handicapped Adult. With seed money from the DD Council, we implemented a program serving people ineligible for, nor could they benefit from, other types of programs, whether these be therapy, schoolding or vocational in nature. In three years, our caseload increased from 25 people to nearly 300 families. Our programs became recognized as the most active in New England and we have been a model for other affiliates. We have become recognized as a viable and important community service, thereby, eliminating our deficits and increasing our budget to nearly $300,000. As of July 1, 1975, we have been operating independent of DD Council funding, without curtailing services, and we look forward to developing new services for persons with cerebral palsy and other developmental disabilities.

Our DD grant not only provided us with funding for direct services but also provided us with leverage to tap other funding sources. DD funding established our community identity. With this, we were able to increase personal contributions, foundations, grants, and utilize other resources (e.g. Urban Mass Transportation Act, Work Incentive, Housing and Community Development Act). As we continue to expand programs, we anticipate seeking seed funds from our DD Council again. These are the types of services Beverly Jackson participates in.

Statement of Linda Martin

Linda Martin, the panel member from Fairfax-Falls Church, has been diagnosed as:

Mentally Retarded
Cerebral Palsied
Epileptic
Diabetic (severe)
Deaf in one ear

Her handicaps are many, but her spirit is still fighting for her place in the world.

Ms. Martin now lives in a Group Home in Springfield, Virginia.and attends a sheltered workshop in Fairfax. The goal of both programs is to help her become as self-sufficient and independent as possible.

Ms. Martin spent many years of her life in institutions "for her own good". With the help of local, state and federal funding, Ms. Martin now has a new life.

Some of the projects in the Fairfax area that have been funded by Developmental Disabilities grants, and have helped to avoid institutionalization for retarded citizens are:

1) start-up money for two Group Homes, now serving 11 clients
2) a film called "A Family of Friends" which depicts life in a Group Home, and is used to educate the public, and especially families of retarded persons, about this more normal alternative to institutionalization;
3) start-up money for the STOP program that teaches parents of retarded children how to handle problem behavior at home in order to avoid the need for institutionalization;
4) the Citizen-Advocacy program developed by the Norther Virginia Association for Retarded Citizens, which matches volunteers with retarded citizens who "need a friend", on a one-to-one, friendship basis;
5) a manual on "how to start a Group Home" written by the Norther Virginia Association for Retarded Citizens;
6) start-up dollars for a new branch for Central Fairfax Services, an adult activity program.

These are some examples of the needs that have been met by Developmental Disabilities grants. People like Linda Martin can give you their personal testimony about the continuing need.

NATIONAL CONFERENCE ON DEVELOPMENTAL DISABILITIES
~~[illegible]~~ Suite 1005 - Ninth Street Office Building
RICHMOND, VIRGINIA 23219 (804) 786-7787

Allen Cohen, Chairperson

The National Conference on Developmental Disabilities (NCDD) is an organization whose membership consists of three representatives from each State and Territory Developmental Disabilities Council. Two designees are Council members, at least one of whom must be a consumer, and the other representative has to be a member of Council staff.

The purposes of the NCDD as stated in the by-laws are:

1. To work towards improving the life of the developmentally disabled.
2. To assist in the cooperation and communication between the National Advisory Council on Developmental Disabilities, Federal and State agencies providing services to the developmentally disabled, and the individual State and Territory Developmental Disability Councils and Staff.
3. To exchange information regarding developmental disabilities between the various state and territory councils and staff.
4. To strengthen the effectiveness of the individual state and territory councils in developmental disability related matters affecting the states, territories or the Nation.
5. To provide leadership in the development of legislation and regulations pertaining to programs affecting the developmentally disabled.

Currently the NCDD focus is on the identification and analysis of issues that constitute barriers to State efforts to provide an appropriate service delivery system for developmentally disabled citizens. In this regard we hope to develop strategies for the maximum implementation of service delivery to our constituency, not the least of which is to keep State Councils up to date on policy issues that impact on their implementation capabilities.

STATE STATISTICS

STATE	NUMBER SERVED	ADDITIONAL DOLLARS EXPENDED	TYPES OF PROGRAMS
Alabama	1,116	$338,757	Public Information Therapy Information & Referral Home and Day Training Daycare Day Training Early Intervention Recreation Workshops
Alaska	Incomplete Data		
Delaware	175	$75,000	Counseling Evaluation Info. and Referral Transportation Training Treatment
Idaho	6,864	$1,097,060	Develop Individualized Data Base Community Awareness Recreation Programs Functional Living & Prevocational Skills Therapeutic Prevention Program Advocacy and Legal Rights Directory of Services Foster Parent and Caretaker Training Work Activity Public Awareness Special Living Arrangements Group Homes
Illinois	4,800	$2,950,032	Diagnosis Day Care Sheltered Workshops Work Activity Home Bound Protective Services

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STATE	NUMBER SERVED	ADDITIONAL DOLLARS EXPENDED	TYPES OF PROGRAMS
Indiana	1,870	$374,094	Diagnosis Day Care Domiciliary Care Training Transportation Education Sheltered Employment Counseling Protective Service Information & Referral Follow Along
Kansas	17,000	$1,000,000	Transportation Sheltered Employment Day Care Sheltered Living
Maryland	3,500	$750,000	Counseling Day Care Diagnostic Education Evaluation Information and Referral Personal Care Protective Services Recreation Sheltered Employment Supp. Soc. Services Special Living Arrangements Training Treatment Advocacy
Massachusetts (1975)	265,269	$532,593	Diagnostic Evaluation Day Care Domiciliary Care Special Living Arrangements Training Education Protective & Socio-Legal Transportation

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STATE	NUMBER SERVED	ADDITIONAL DOLLARS EXPENDED	TYPES OF PROGRAMS
Michigan	3,000	$900,000	Sheltered Employment Special Living Arrangements Counseling and Follow Along Training Treatment - dental care
Minnesota	1,446	$391,180	Legal Advocacy Citizen Advocacy Sheltered Employment Information & Referral Specialized Residential Programs Parent Training Transportation Hospital/School Coordination Incidence/Prevalence Study Regional Planning Leisure Opportunities
Missouri	2,756	$2,341,100	Residential Training Sheltered Employment Personal Care Treatment Education Recreation Transportation Day Care Information & Referral Protective and Other Socio-Legal Serv
Montana	7,000	$14,000,000 Title XX 25,000,000 State 5,000,000 Other	Advocacy Pre. Voc. Training Pre-school Work Activity Day Activity Home Training Research Information & Referral
New Hampshire	2,393	$219,600	Diagnosis Evaluation Treatment Day Care Recreation Special Living Arrangements Information & Referral

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STATE	NUMBER SERVED	ADDITIONAL DOLLARS EXPENDED	TYPES OF PROGRAMS
New Jersey	1,331	$4,124,646	
North Dakota	1,273	$55,000	General counseling Ref. and Follow Along Residential Care Diagnosis Evaluation Treatment
Ohio	6,768	$583,429	All 16 basic services
Pennsylvania	3,293	$1,040,453	Counseling Day Care Education Evaluation Follow-Along Info. and Referral Protective Services Recreation Sheltered Employment Supp. Soc. Services Special Living Arrangements Transportation Treatment
Puerto Rico	11,191	$613,364	Group Homes Transition Centers Day Care Treatment Centers Group Therapy
Rhode Island	212	$383,143	Advocacy Training Follow Along Evaluation Special Living Arrangements Case Finding Treatment Counseling Information & Referral Public Information & Education Transportation Education Recreation

STATE	NUMBER SERVED	ADDITIONAL DOLLARS EXPENDED	TYPES OF PROGRAMS
Tennessee	24,000	$6,000,000	
South Dakota	600	$58,000 Match 800,000 HUD 743,800 Title XX 23,084 Other	Training Sheltered Employment Counseling Diagnosis Evaluation Education Follow Along Day Care Recreation Information & Referral Staff Training Special Living
Utah	3,100	$64,300 Match 30,000 Discretionary 755,570 Title XX	Pre-school (evaluation - diagnosis training & parent tng.) Recreation (Transportation) Advocacy (I & R, empl. counsel. Public Education) Education & Training (School)
Virginia	1,022	$2,314,297	All 16 basic services
West Virginia	1,808	$2,978,736	All 16 basic services
Wisconsin	150,000	$700,000	All 16 basic services
Wyoming	400	$750,000 Title XX 250,000 Match 111,000 Discretionary 10,000 Voc.Rehab.	Pre-school (infant stimulation)
TOTALS	546,523	$33,379,154	

Senator STAFFORD. We will invite the next witness to come to the table.

Our last witness is Margaret Cauffield.

We note that you have a prepared statement. The Chair will invite you to either deliver it as prepared or speak extemporaneously and have your statement put in the record, whichever you prefer.

STATEMENT OF MARGARET CAUFFIELD, WASHINGTON, D.C., ACCOMPANIED BY JAY SHAPIRO, M.D.

Ms. CAUFFIELD. Well, I am not very good at extemporaneous speeches, so I think I will read my statement. I have added a few items.

I would like to introduce you to Dr. Jay Shapiro, who is the medical advisor of our local group of persons who are affected with osteogenesis imperfecta.

Senator STAFFORD. Thank you.

Dr. Shapiro, you are most welcome here.

Ms. CAUFFIELD. So I will begin.

My name is Margaret Cauffield. I live at 1311 Delaware Avenue SW., Washington, D.C. I am here this morning because I appreciate how the Congress can affect other peoples' lives.

Without the 1954 amendments to the Vocational Rehabilitation Act, I might still be confined to my parents' home in western Pennsylvania, unemployed and unemployable. At least I have always attributed to those amendments the fact that the Pennsylvania Bureau of Vocational Rehabilitation finally reached me in early in 1956, when I was in my midthirties, with an offer of vocational training at the Woodrow Wilson Rehabilitation Center. That training was my total school experience.

As it is, I have been employed for almost 20 years and function independently in my own apartment, 200 miles from home and family.

Incidentally, except for my parents' opposition, I could have wound up at Polk Center, which we heard a lot about this morning.

My handicap resulted from osteogenesis imperfecta, a genetic disorder that, in my case as in most cases, is thought to be a spontaneous mutation since there are no others so affected in my family. Osteogenesis imperfecta is commonly known as the "brittle bone" disease and those most severely affected suffer many fractures resulting in structural deformities and limited growth.

Osteogenesis imperfecta is not exactly a household term. Many in the medical and health professions know little or nothing about this disorder.

To illustrate, a baby born just last year in a southwest State was taken home in apparent good health. Within the first week at home, the baby suffered a leg fracture. The leg was set, with no intimation of cause from the attending physician. Shortly after, the baby's other leg fractured but there was still no attempt at diagnosing the cause of these fractures.

When the family moved to a metropolitan area where more fractures occurred, hospital officials took the child from the parents, accusing them of child abuse. When authorities failed to prove that the baby had been beaten, tests were ordered, and the baby was found to have osteogenesis imperfecta, the brittle bone disease.

There have been other such cases.

So I am here, representing myself and a group of families and individuals also affected by osteogenesis imperfecta in our tri-state area, to ask your consideration of inclusion of osteogenesis imperfecta in the Developmental Disabilities Act, at your next deliberations on that act.

Developmental disabilities services administered to the child affected by osteogenesis imperfecta would avoid the time lag until the age when vocational rehabilitation services would be available and would thus decrease the physical and social impact on adult life of this tragic condition.

The cost effectiveness of starting young is proven—people can produce more and for a longer period of time, reducing perhaps the amount of vocational rehabilitation services needed later.

Developmental disabilities services would provide the early solid foundation from which we could build a more productive life, averting the lengthy delay I experienced.

Inclusion in the Developmental Disabilities Act would help to bring recognition of cases by those in medical, educational, and rehabilitative circles. Perhaps there would be no more horror stories of parents falsely accused of child abuse while their osteogenesis imperfecta child suffers not only from the disorder but also from lack of early and proper treatment.

I would like to add one thing here, and that is the importance of parent training in the care of fragile osteogenesis imperfecta children. I did not include that in the regular written statement, but I would like to mention that.

Senator STAFFORD. We will be glad to have that incorporated in your statement.

Ms. CAUFFIELD. Developmental disabilities puts people in contact with services; developmental disabilities finds services for its population; developmental disabilities advocacy sees that its population receives the proper services. Designated developmental disabilities State agencies cannot now make the outreach effort for our population because it is not mandated in the act.

Formalized governmental recognition of osteogenesis imperfecta, if it led to establishment of clinics and the provision of ongoing medical care, could work a great financial relief to families struggling to pay the catastrophic bills incurred by extended hospital stays necessary for proper care and healing of fractures.

A young family in Silver Spring, whose only child, a 3-year-old daughter, is mildly affected by osteogenesis imperfecta, has incurred approximately $8,000 in medical bills in those 3 years, an amount only partially covered by health insurance.

There is estimated to be approximately 30,000 persons affected by osteogenesis imperfecta in the United States, from mildly to severely. Persons affected by osteogenesis are generally of higher than average intelligence, have a generally positive outlook on life, and could help provide services to others who are handicapped.

There is little limit, given a few important adaptations in environment, to what this population can accomplish.

I believe that osteogenesis imperfecta is prevalent enough to deserve the attention of governmental agencies with action directed toward meeting the unique needs of this population.

Last, but far from least, we are also concerned about inclusion of osteogenesis imperfecta on priority lists of those Government agencies engaged in basic research. Finding the cause and/or cure for osteogenesis imperfecta may be the key to unlocking other bone disorder mysteries.

Your attention is drawn to two support articles, titled "Psychosocial Factors in Low Incidence Genetic Disease—The Case of Osteogenesis Imperfecta," and "Children With Osteogenesis Imperfecta." These are recent articles published in national professional magazines and are submitted for your study.

Thank you for the opportunity to present the osteogenesis imperfecta story to this very important assembly.

Senator STAFFORD. Thank you very much for joining us this morning and helping this committee.

The articles that you have mentioned will be made, without objection, a part of this committee's record.

You mentioned your self-sufficiency and employment on page 1 of your statement.

Could you briefly tell the Chair how you do earn a living?

Ms. CAUFFIELD. I am a clerk in the Federal Government.

Senator STAFFORD. Very good.

May the Chair compliment you on that.

And we want you to know that the definition of developmental disabilities is under study at this time, and we are anxiously awaiting the results of that study so that we can take them and your recommendations, as well as others' recommendations into consideration prior to any legislative action on the program.

And so I thank you very much for coming here and giving us the benefit of your testimony.

We do have a few questions, but we are going to ask that you and Dr. Shapiro answer them in writing. We will submit them to you in writing, if that is agreeable, so that they can, in that way, become a part of the record.

There being no more witnesses for this morning, the Chair is about to announce the subcommittee to stand in recess until tomorrow.

The Chair would advise those who are present that tomorrow's witnesses will be from the administration as well as from Gallaudet College and the National Technical Institute for the Deaf.

[The articles referred to and the questions by Senator Stafford to Ms. Cauffield with answers follow:]

[From Nursing Clinics of North America, Vol. 11, No. 4, December 1976]

Children with Osteogenesis Imperfecta

by FRANCES M. DUBOWSKI, R.N.*

Because there have been no guidelines for nurses in the care of osteogenesis imperfecta children, there is a profound need for bringing to light the errors and ignorance in the care of these intelligent, fragile individuals. Awareness of this crippling disease was created in 1968 by a magazine article in which a mother wrote of her anguish and inability to cope with a child so helpless and totally dependent upon her. As an outgrowth of this article the first clinic for the care of these children was organized.

I had my first encounter with an O.I. birth during my nurses' training at Cook County Hospital, Chicago. This birth created an aura of fear, clamped mouths, and averted eyes. Everyone avoided the mother. The delivering physician was curt, spoke in short quick sentences, and left her room immediately. She left the hospital without seeing her baby. The infant remained in our hospital for nine years because no one knew that he could live in the outside world. His record read "forty-three fractures (plus) of the upper and lower extremities and ribs."

Many years later I came to work in an orthopedic hospital for crippled children where, on my first day, my first bath assignment was that of a 9-year-old, 23 pound, 19½ inch youngster with an adult voice. His record read "fractures at birth 200 plus, too numerous to count." On this morning he had already been propped up in a carrier seat, had had his breakfast, and was stitching on a piece of embroidery.

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*Nurse Consultant to the Osteogenesis Imperfecta Research Project, Shriners Hospital for Crippled Children, Chicago.

FIGURE 1. Thirteen-year-old child with osteogenesis imperfecta.

As I approached with the bath water, I heard the instructions, "Nurse, don't lift me or touch me till I tell you how." You can be sure I listened. If after reading this article you will remember only this, then I will feel that this article has been worth my efforts. Along with the need to *respect the child's instructions*, a close observation of the parents and their handling of the child upon admission is of great value. Parents live with this disease 24 hours a day and have developed special skill with their child's needs. Once I heard a snap of a femur when a co-worker changed a diaper. I also have heard a snap when blood was drawn from a child with O.I. Yes, it was the fracture of a humerus.

NATURE OF THE DISEASE

Osteogenesis imperfecta is a hereditary disease involving generalized connective tissue. It is thought to occur in two forms, congenita and tarda. In our clinic at Shriners Hospital for Crippled Children we observed many variations and for this reason chose to classify our children as severely affected, moderately affected, and mild. The nursing care for each of these categories calls for gentleness and centers on safety and prevention of fractures and deformities. I shall confine my writing mainly to the care of the severely and moderately affected since these two groups are so frequently hospitalized.

O.I. is characterized by thin broken bones, blue sclera, poor teeth, short stature, and scoliosis in 70 per cent of all affected children. Other signs in the severe form are triangular facies (generally), hyperpyrexia, excessive diaphoresis, easy bruising, recurrent epistaxis, and constipation.

Temperatures taken morning and evening for 30-day periods show that the temperature of the child with severe O.I. remains 1 to 2 degrees above normal. This is demonstrated by his need for less clothing, few or no covers when sleeping, and a greater fluid intake than other children.

CARE MEASURES

Clothing. This should be lightweight, nonconstricting, and void of ribbons, buttons, pockets, or ruffles. Zippers should be provided rather than buttons. Many fractures have occurred from catching an arm or leg between the crib rails. A padding to keep the extremities within the crib is a must.

Diapering. In changing the child's diaper, one must lift the child by his buttocks and, in a sweeping motion with the upper arm, support and cradle the legs while placing the diaper. Never lift the legs at the ankle area, since this can cause fracture of the long bones and the feet. Heavy, thick diapers can constrict, so use of these should be avoided.

Bathing. It is beneficial to allow the child to be bathed in a small tub or basin lined with a heavy towel, except where casting prohibits. An open-mesh, plastic clothes basket can be set into a larger tub, to give security to the child. The basket can be lifted in and out with the child in it.

Feeding. At feeding time the nurse can cradle an infant on a pillow, with a comfortable amount of pressure. The older child can be placed in a portable seat-carrier, the type used for toting from place to place, with a soft strap across his middle, since any chest constriction could fracture the ribs. For a child in a spica cast, the upper portion of the body should be slightly elevated, or preferably the child can stand in a table-type walker.

The preschooler or school-age child would prefer to sit in a small wheel chair and feed himself. A pillow to sit on can prevent trauma and skin breakdown. The legs must not be allowed to hang over the edge of the wheel chair, as fracture of the femur is most common. The legs should be supported in flexion by a padded board.

The susceptibility of these children to U.R.I.'s, their chest deformity, and their poor teeth require an upright position at feeding time. They are usually picky and slow eaters, and since their stomachs are crowded up into the chest cavity, small frequent feedings are encouraged.

The occurrence of excessive diaphoresis showing an abnormality in energy metabolism requires adequate or increased caloric and protein intake. These children are always thirsty and should be allowed to drink as much as they want. They need only normal amounts of calcium, but generally dislike milk. Adding flavoring to milk, giving ice cream and puddings, and the use of milk in cooking can help supply the amount required. There are no hard and fast rules about diet, but one should make an extra effort to tempt the appetite.

USE OF THE BEDPAN. These children have an extreme fear of being handled and may not ask for the use of the bedpan. Since they do not walk, their weak buttock and leg muscles cannot support them while on the bedpan. They should be lifted gently by the buttocks, with the legs supported by a pillow. If bedwetting occurs, skin care, using water and a mild soap after each episode, can help in preventing rash and irritation to the skin.

FRACTURE CARE

Fracture of Upper Extremity

Many fractures in these children are cared for at home by the parent. There is a snap, a cry, and the child exhibits pain. The parents wrap the extremity with an elastic bandage, soothe the child, and may or may not make a trip to the hospital.

When a fracture of an upper extremity occurs, the child will most often prefer to hold that arm firmly against himself, with the opposite arm. Callus formation takes place in a few days. A triangular bandage or stockinette sling can be applied, but a long arm cast should be avoided. The weight and pressure of the cast would only serve to cause a fracture above the cast, and possibly fracture of the ribs. All fractures should be checked frequently for color, circulation, sensitivity, and movement. Apply soft padding to the axillary region to absorb excessive perspiration.

Fracture of Lower Extremities

In these cases the child is delivered to the hospital, usually with an elastic bandage type of wrapping to ease transportation. X-rays are taken, and a long leg cast applied in the older, moderately or mildly affected O.I. child. If a long leg cast is applied to the extremity of the severely affected child, there is a strong possibility of a fracture just above the cast. Therefore a hip spica is necessary to insure complete support to the entire leg.

The cast should be neatly trimmed and should not rub up against the protuding chest. The edges should be free of loose plaster, covered with a flannel-type tape, to prevent excoriation of the skin. The edges around the pubes and rectal area should be taped and then covered with plastic wrap to keep moisture out. Some physicians have applied a double spica or casts to both legs, even if only one is fractured. This facilitates the child standing in a few days and decreases the chances of trauma to the uninjured leg by the weight of the cast.

Our physicians do not apply short leg casts, but if this is done, the parent or nurse must use extreme care in handling the child since the weight of the cast could cause fracture of tibia and fibula at the proximal end.

Children in casts of the lower extremity should have a regular check of the covering on the feet. Sheets and spreads should not be tucked in tightly under the mattress, which would cause pressure on the toes.

Care of Casts. One cannot emphasize strongly enough the importance of good cast care. This eliminates the removal of the cast before healing is accomplished. Although O.I. bone develops callus more quickly than normal bone, the bone remains subject to fracture just as it was before the initial break. A clean, well cared for cast can be kept on for the full time required, eliminating the anxiety and fear of unnecessary removal.

The importance of a dry cast is undoubtedly the one greatest factor in cast care. To avoid giving enemas, nurse and parent should persist in having the child eat fruit and drink fruit juices. It is almost impossible to keep a cast dry during an enema procedure. For boys the penis can be directed into a tube or urinal, padding with disposable diapers beneath the perineal area to catch any additional moisture. For girls the right size diaper should be used, pulling back about a quarter length of the plastic liner, folding the absorbent portion under the buttock, while taping the plastic portion to the back of her cast. The front of the diaper is tucked into the front cast opening. This can be reversed when the child sleeps on her tummy, giving the back a chance to dry, if necessary. One sanitary napkin, or more, depending on the size of the child, can be inserted into the front opening to absorb the flow of urine. Another diaper, without liner, or a cloth diaper or receiving blanket, can be placed beneath the buttocks to catch whatever moisture might seep through.

Children can be positioned at a slight incline to encourage downward flow. In the end the cast may still be damp, and for this we have used a hair dryer, under close supervision, since the skin can be extremely sensitive to heat.

Various solutions have been tried to wash casts but none have been of any value.

Scoliosis. We have used the Milwaukee brace as a palliative measure. The brace is worn 23 hours of the day with an hour for bath and/or hydrotherapy. It has been the practice of our hospital to admit the child for a week to acquaint the child and the parent with procedures. During this period the brace is checked thoroughly for fit and possible pressure areas. These children are checked regularly every three months for brace adjustment and skin condition, and by the dental clinic for lower jaw protrusion and interference with tooth formation.

FRAGMENTATION AND RODDING. The challenge in this disease is the control of fractures. The fractured bones in both upper and lower extremities can curve rather dreadfully. Rodding is not done solely for cosmesis, since in spite of some severe curvatures these children can perform various tasks other than walking.

Surgery has helped in controlling fractures and correcting the deformity. It is important that these children be standing in their casts the day after surgery. Stress of the bone will increase bone growth. Rodding is most frequently done in the femur and tibia. The humerus is rodded only when it interferes with self feeding or when clothing cannot be found to fit, and the radius is done rarely because of its thinness in size. I have not known of a fibula being rodded.

LONG LEG BRACES. Once the bone is solid enough to remove the cast, some children are protected by long leg braces. Stress on the bones, use of the muscles, and improving circulation are of utmost importance. The child is never allowed to stand alone, but will have the immediate supervision of one or two hospital personnel and is supported and lifted as necessary. These children may never walk, but braces serve as support.

SPINAL FUSION. This surgical procedure recently done on two of our children calls for positioning the child flat and using log-rolling technique as with the usual spinal fusion patient. No metal equipment was used, but soft traction has been applied.

Preoperatively these children who have increased metabolism often run an elevated temperature, but when surgery is cancelled for that day, the temperature returns to the child's normal value. Postoperatively, nausea and vomiting have not been a problem, except in one case of spinal fusion. The most frequent complications have been dyspnea and nocturnal orthopnea. Oxygen and suction equipment are routinely ordered to be available at the bedside.

Vital signs for these children are varied. Pulse and respiration are more rapid, but blood pressure remains the same as for other children. A lightweight pediatric cuff should be used in measurement to prevent trauma and fracture.

MEDICATION. Aspirin has been contraindicated. Tylenol has been administered as a replacement.

Pre- and postoperative injection sites are usually the deltoid muscle, but though these children are mainly sitters, we have had to resort to the buttocks, the fleshier site, for any necessary daily injection.

PSYCHOLOGICAL NEEDS

These children remain in the hospital for a longer period than the usual fracture patient. This gives the nurse more time to observe and assess the level of the child's and parents' understanding of this chronic debilitating disease. They need help in developing a realistic attitude toward their life and plans for the future. Time should be provided for the child and parent to discuss their feelings openly, but encouragement must be coupled with honesty in facing the future. Many of these children have dreams of becoming doctors, nurses, or pilots, and one must redirect such dreams into the more practical vocations.

A recent survey of the adults once in our care as children reveals these positions held: secretary, editor of a newspaper, bank auditor, electronic repair man, consultant to handicapped college students, telephone sales person, and hand craft worker.

We encourage these children to attend a regular school whenever the school is on one floor or is equipped with elevators. Their active excellent minds should be developed. It has been proved that they are and can be self-supporting citizens.

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[From Social Work in Health Care, Vol. 1(4), Summer 1976]

PSYCHOSOCIAL FACTORS IN LOW-INCIDENCE GENETIC DISEASE:

THE CASE OF OSTEOGENESIS IMPERFECTA

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ABSTRACT. Osteogenesis imperfecta (OI), a dominant genetic disorder, was examined in an exploratory case study of psychosocial implications. The cross-sectional survey sample consisted of 13 OI-affected adults and 21 families with an OI-affected child who were interviewed. Findings revealed numerous psychosocial concerns and problems in addition to their complex and lifelong medical problems. Specific problem areas differed according to the severity of the disease, type, and mode of genetic inheritance. The results indicate the need for local as well as national policy changes through legislation and extensions of existing services for low-incidence disease groups such as OI-affected persons. Implications for social work practice interventions call for greater involvement with genetic diseases, more aggressive approaches in case identification and service coordination, and performing longer-range monitoring functions than is usually the case.

Except in the case of popularized genetic diseases, social workers in particular and society in general have not developed much documented understanding of the often unique psychosocial problems that are inherited concomitantly with the physical liabilities of many genetic diseases. For many families with genetic disorders there are multiple lifelong medical, emotional, social, and financial difficulties that pervade their everyday existence and demand societal support systems that are not now available. The lack of these socioemotional and financial support systems is bleak testimony to the disenfranchisement of countless tens of thousands afflicted with relatively rare genetic diseases.

Among the almost 2,000 different genetic defects catalogued, the

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dominantly inherited disorders include some of the most debilitating and incapacitating diseases.* One of these is osteogenesis imperfecta (OI), which is a tragically severe disorder typical of many of the low-incidence, low-visibility dominantly inherited diseases that occur 1 in 20,000–50,000 in the general population. These diseases are not considered major enough to command much in the way of research money, social recognition, or societal concern and, consequently, lack effective lobbies and public support for special legislative and aid programs. In contrast are widely publicized diseases such as cystic fibrosis, hemophilia, and sickle cell disease which occur 1 in 500–2,500.

The purpose of this study is to elucidate the contributory psychosocial problems and special needs of OI patients, which are seen as prototypical of other severely debilitating dominant genetic disorders. These needs are related to social work and societal responses in the areas of policy development, financial support, and programmatic efforts that are required to cope effectively with the problems generated by these diseases.

Familial cases of osteogenesis perfecta occur by inheritance from an affected parent. Affected parents are very likely to have affected children, since the known transmission risk is 50% for *each* child. A person may have OI, however, without having an affected parent or relative. These cases are termed "sporadic" and represent a phenomenon consistent with the occurrence of new mutations in dominant diseases.[1] These affected individuals may then pass the disease on to their offspring following the pattern of familial cases.

Osteogenesis imperfecta is manifested in two forms: Osteogenesis imperfecta congenita (OIC) is a more severe form of the disease which is characterized by fractures at birth and extreme fragility of the bones, which sometimes fracture hundreds of times. Marked skeletal deformity, shortness in stature, brittle, soft teeth, and, frequently, progressive hearing loss are typical consequences of the disease. In contrast, osteogenesis imperfecta tarda (OIT) is characterized by onset in infancy and fewer bone abnormalities than in OIC cases. The OIT-affected person is usually able to ambulate without the aid of crutches or wheelchairs in contrast to many OIC cases. In both instances intellectual functioning remains unimpaired despite the disease.

The fact that OI begins at such an early age and is frequently marked by severely deforming, incapacitating, and untreatable skeletal abnormalities underlies the lifelong medical and psychosocial problems that plague these individuals and their families. The high risk of transmission to children underscores the fact that the problems created by the disease are likely to be continuous across generations of the same family.

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*Advances in genetic research have been limited primarily to chromosomal and recessively inherited disorders. The vast group of genetic diseases with an autosomal dominant mode of inheritance, such as OI, cannot be diagnosed prenatally, and only limited physical treatment, if any, is available.

METHODOLOGY

With few exceptions, the total available patient population in the seven-county, Twin Cities metropolitan area was included in this 1-year cross-sectional survey. The patients were selected from the medical records of the University of Minnesota Hospitals, Gillette Crippled Children's Hospital, and the Minnesota Osteogenesis Imperfecta Society. Thirteen OI adults (7 males and 6 females) with a mean age of 36 years (ranging from 21 to 62 years) were interviewed as were 21 normal parents of OI-affected children.

Home visits were made to each family. Genetic and medical histories of each affected individual were obtained prior to conducting the psychosocial interview in order to establish rapport. Personal interviews with OI adults were structured, following an open- and closed-ended questionnaire guide. The questionnaire included 21 items designed to assess general problem areas associated with OI, including intrafamilial and extrafamilial relationships, level of education, occupational status and limitations, medical needs, financial problems, and further need for social services. Subjective judgments were also made about each respondent's psychosocial functioning by the professionally trained interviewer.

FINDINGS AND DISCUSSION

Responses of OI Adults

Of 13 respondents, 11 stated that their disease affected their family relationships. Nine of the individuals spontaneously reported overprotection by their parents, which often caused friction and intensified familial anxiety. However, a third of the respondents claimed that these tendencies, together with the limitations of their disease, fostered a closer relationship with their parents. Severely affected OIC adults who underwent long periods of hospitalization during their childhood harbored feelings of rejection toward their parents. Relationships with siblings were characterized at times by embarrassment and rejection due to the affected individual's deformities and inability to participate in usual childhood activities. These occurrences frequently caused estrangement among family members. Despite these problems, half of the respondents described the effects of their disease limitation as contributing to family unity!

On dating and courtship patterns, adults with OIC frequently reported difficulties. One 24-year-old man expressed disappointment at finding his girlfriend married to a normal male following a 6-week hospitalization for a fracture. A 40-year-old woman felt that the major tragedy of her disease was the lessening prospects for a husband and family as the years progressed. All the observations were not negative: A 23-year-old man commented that while his physical deformities seemed to alienate some women, others were intrigued with his ability to overcome his handicaps and dated him.

All OI adults were interested in companionship and marriage. Only half of the women married, all past the age of 30, and they married handicapped men. In marked contrast, the three OIT males were married at an average age of 25, and they all married physically normal women.

All marriages involving an OI-affected spouse produced offspring with one exception: An OIC woman separated from her husband because *he* wanted children and *she* did not want to risk having an affected child. Despite the 1 in 2 risk for each child born to be affected with OI, the 6 married individuals had 9 out of 11 affected children. After the birth of 1 affected child all OIC parents had no further children, whereas the 3 OIT adults had more children. It is also noteworthy that 14 out of 21 sporadic families produced no further offspring after having an affected child.

Educational careers were slowed due to repeated fractures and hospitalizations. Their commitment was high, however, since all OI adults achieved a high school degree, with some finishing through GED examination. Six attended college and three graduated.

Employment opportunities and occupational security were major problems for all OI adults interviewed. Most OIC individuals found that their physical disabilities required them to undertake modest, home-based occupations such as telephone answering services, dressmaking, and home sales. Other, more ambitious persons developed their own businesses in their homes: One woman provided secretarial skills for the small community where she lived; another young man did computer programming. Those more mobile adults employed within the community tended to remain in their jobs for most of their working careers.

Limited occupational opportunities, absenteeism due to intercurrent medical problems, and the hereditary nature of the disease contributed to the extensive financial problems of almost all OI adults and their families. Expenditures for special ambulatory equipment such as wheelchairs and braces, continued medical and hospital costs, and special transportation expenses created major and unrelenting financial burdens. Family financial stress was compounded by multiple occurrence of OI in a family. Even though 11 out of 13 respondents indicated that they received social services as a result of their OI, they almost always needed additional services including better vocational and educational counseling, special transportation services, as well as continuing financial assistance.

Families with OI Sporadic Cases

Those parents who produced a sporadic OIC child were overwhelmed at the birth of their sometimes severely deformed babies, many describing their reactions as ones of shock and immobilization. Some initial reactions included anger that there had been no one knowledgeable to counsel them about the diagnosis or prognosis for their child. Depression and feelings of guilt at having produced a malformed child were frequently present, and fear that they would not be able to provide adequate care for their child was sometimes overwhelming. These reactions occasionally impaired appropriate parental functioning: One set of normal parents who produced an affected first child cut themselves off from friends and activities and concentrated all their time and energy on this child; another first-time mother became so depressed and frustrated at the extra care required by her affected child that she had to turn most caretaking duties over to her own mother.

OIT families with affected sporadic children differed in their initial reactions. Since with OIT bone deformities and fractures usually do not occur until 1 or 2 years of age, the newborn appears perfectly normal. These parents have a more gradual introduction to the disease, making it somewhat easier to accept.

When a sporadic case of OIT occurs, the diagnosis is made, and the nature of the inheritance explained to the parents, several stress-producing reactions generally follow. A parent may inappropriately assume full responsibility for the defective gene and become totally incapacitated with guilt and fear. Or, as in other cases, one spouse may blame the disorders on a defect in the other spouse's family. While genetic disorders often incur such severe marital distress and frequently later result in separation or divorce, this did not occur among sporadic families.[2]

Extended family members frequently were noted as impeding normal family interaction and overall acceptance of the affected child. One-third of the families reported denial of the disease in the family, and, at times, even rejection of the child by grandparents, aunts, and uncles. Another one-third of these sporadic families mentioned that extended family members overreacted and became overconcerned, almost obsessed with the affected child.

In contrast, one upper-middle-income family described their sporadic child's birth and familial acceptance as beneficial for the family in that it slowed down their hectic life pace and unified them to give support to the affected child as well as to each other.

Sporadic and Familial Comparisons

Problems and needs frequently differed according to the mode of inheritance of the disease. In familial cases of OI, knowledge of the disease and its risks provides a more secure, seasoned environment for the newborn OI child. Affected parents who have lived with the disease correctly assume that they can prepare their affected child for ensuing disease-related problems; however, this is not always the case. One mother attempted to compensate for the loss she experienced as a child by overprotecting and overindulging her own OIC-affected child, which is a familiar parental response.

In sporadic cases of OI somewhat different kinds of problems and concerns are faced. Giving birth to a child with OI is initially devastating for parents who have no prior knowledge of the disease. Their fears, guilt, and anticipations are limitless. Frequently, they are overwhelmed by feelings of burden and discouragement that interfere with accepting the affected child. Schild's[3] contention that the fear that one possesses a defective gene causes a momentous insult to the ego and fosters inadequate parental functioning was true initially for many parents of sporadic OI cases. There evolves a gradual acceptance and tendency among sporadic families to focus on the affected child as unique and special, setting the child apart and creating a family imbalance. In contrast, an affected child born to an affected parent is much more readily accepted into the family.

The ability of OI families to cope effectively with the consequences of the disease is, however, severely stressed as the number of affected family members increases. Familial imbalances again occur when more than one member is affected, with OI becoming the center of familial concern and activity. Those who are physically normal may feel estranged and develop psychological problems. In one family with three severely handicapped members, one physically normal girl had to assume heavy household responsibilities and faced critical identification problems that were not present among the affected siblings.

Comparisons of OIC and OIT Cases

OIC individuals face an enormous onslaught of problems consequential to their disease that are often less severe and complex among OIT cases. They must contend not only with the recurring fractures and resulting physical deformities of their disease but also with the social problems linked to their dwarfism and stunted growth.[4] As is often the case with a handicapping disease, major psychological difficulties can emerge, especially in terms of establishing a positive self-concept and self-acceptance. Physical disease and disability may also induce individuals to respond with an emotional reaction that may be more incapacitating than the disability itself.[5] Most OI adults, however, appeared self-accepting and comfortable with themselves and their deformities. The theory that physical disabilities have special and usually negative symbolic meaning was not evident in most OI individuals.[6]

Ambulatory problems also plague OIC individuals more than OITs since most are limited to using crutches or are confined to wheelchairs. Without a specially equipped car, OIC adults are severely restricted. Inaccessible public transportation and architectural barriers occasionally create a situation of almost total isolation. Metropolitan area transportation facilities for the handicapped are virtually nonexistent, and, like their small-town counterparts, individuals with ambulatory problems must depend on family, friends, or neighbors for mobility. Ironically, this dependence fosters a reluctance on the part of some potential helpers, who fear that bodily movement of an affected person may well induce fractures.

Mobility is a major consideration determining ultimate educational and occupational status and achievement. Several OIC individuals were discouraged by the inaccessibility of potential resources, and financial and architectural barriers as well led them to discontinue their formal education. This, in turn, limited their potential occupational opportunities along with the constraints associated with their mobility level. Furthermore, nearly all respondents reported being victims of discrimination as they sought employment.

The kinds of employment more easily accessible to OIC adults provide for bare subsistence income only. These earnings are not enough to cover the unrelenting stream of medical expenses. Complicating their financial situation is the fact that individuals with inherited congenital disorders are not eligible for medical insurance.

Those individuals eligible for Supplemental Security Income (SSI) benefits can receive a maximum of less than $170 per month, which is barely adequate for subsistence. This situation creates a double bind: In order to survive, one must supplement these SSI benefits; yet if one works, those benefits are either proportionately decreased or completely cut off. A young OIC woman presents a typical dilemma: She would like to gain employment in order to become eligible for federal Social Security benefits. However, if she works, her current source of income and medical coverage (a state-funded program) will be discontinued. Due to her disease, she cannot afford to be without medical coverage for even a brief period of time. She is, therefore, forced to remain unemployed and dependent on her parents. An onerous feeling remains for many OIC individuals, one of being an immense burden to their families because they are thwarted by an unaccommodating system in their efforts to become independent.

In many ways OIT individuals confront more anxiety in their lives than do OIC individuals because of their relatively normal appearance. OIT sufficiently complicates affected individuals' lives with repeated fractures, hospitalizations, and ensuing losses from work and school; yet they may appear physically normal and must compete with physically healthy individuals in school and for jobs. This competition intensifies already high anxiety levels for these persons. The tarda form of the disease does not inflict enough of a handicap on many of these individuals to warrant welfare support or special aid programs. They, nevertheless, face discrimination in trying to secure and maintain employment and in obtaining medical insurance because of their disease.

Additional Findings

Questionnaire and interview responses document the impact that a physically debilitating genetic disease has on family dynamics, social relationships, educational achievement, employment possibilities, and family finances. In contrast to another study that concluded that "OI adults . . . think alike, feel alike and sound off . . . in the same way,"[4] this survey reveals a *variety* of responses obtained from OI-affected adults. One might expect that such a disabling disease as OI would precipitate severe personality dysfunction among affected individuals. Instead, a varying range of reasonably good adaptations and compensatory measures were found. Most OI adults were rated moderate to high in their levels of ambition and anxiety. Hostility levels among OI adults were judged to be quite low. They gave a general impression of some social alientation and high dependency levels, but this is consistent with the physical limitations of their disease.

Perhaps being physically handicapped, or restricted from normal activity, allows more time for self-evaluation and self-knowledge, and a comfortable acceptance of self is eventually attained. This might account for the high levels of expressivity and moderate to high self-concept ratings of most observed OI adults.

Despite physical disability and disease-related familial and social problems, it is significant that half of the OI adults chose to marry *and* to have children. This may well indicate a quest for normalcy in a life plagued with exception. Motivation for having children varied as well. Some parents had been unaware of the high risk of having an affected child. Those who were cognizant of the risks involved gave no explanation for their motivation other than their extreme desire to have children. Schultz's[6] proposition that having a defective child intensifies parental desire for normal children was not supported in this study; quite to the contrary, the majority of sporadic families and all OIC adults had no further children after one affected child was born.

IMPLICATIONS FOR SOCIAL WORK

There is indeed ample opportunity for social workers to become increasingly involved in the field of genetics. Schild's[7] statement that geneticists and physicians—traditionally trained as academicians and researchers—have had little experience or training in dealing with personal and interpersonal relationships of their patients is a fitting call for contributions from the social work profession. As genetic services expand, it will be the social workers' responsibility not only to provide improved services but to conceptualize and identify the nature and kinds of psychosocial problems that occur as a concomitant of inherited diseases.[7]

The unmet needs of various diseases, especially those with low social visibility, should be further investigated, differentiated, and made generally known. Taken separately, low-incidence diseases such as OI represent a small population; however, in combination with the many other uncommon disorders, such as achondroplasia, Marfan's syndrome, and Ehlers-Danlos syndrome, the number represented by these low-incidence diseases grows to sizable proportions.

Social workers who become involved with genetically inherited, low-priority disease groups such as OI must assume an advocacy role and help to initiate policy and program formulations with which to assist these groups, whose unmet needs are considerable. The provision of nonpunitive, facilitative, and continuing financial assistance is a foremost priority for these families, who are denied medical insurance, excluded from most catastrophic illness coverage, and who now receive only subsistence support from public funds. A chronic disease such as OI takes a severe toll on even upper-middle-class family resources. Only generous governmental sponsorship, through direct and indirect payments, can alleviate the financial stress placed on families affected by such debilitating diseases as OI. Such public sponsorship could easily be achieved through a revised concept of need that includes as beneficiaries those who are permanently afflicted but not totally disabled and those who are financially desperate but not destitute. While the need for such a support system should be applicable to all persons affected by incapacitating disease, the need is greater for low-visibility genetic diseases such as OI because there are no sizable private foundations that can underwrite some of the special costs of treatment. If programs are available to help such individuals, they are usually piecemeal and lack comprehensive coverage.

Since most genetic diseases such as OI imply chronicity, affected individuals and their families require a life span approach to intervention rather than the more traditional, time-limited approach to providing social services. In many cases, the life span approach could be elaborated into an intergenerational approach to intervention because of the high probability of recurrence in subsequent generations. Except for some hospitals and rehabilitation centers, the social work profession is neither conceptually nor practically equipped for dealing with such long-range considerations. A concept of monitoring-in-anticipation needs to complement the reactive concept of crisis intervention that so heavily permeates social work practice today. One prime avenue to gain access to this population of interest would be through greater social work involvement as part of a genetic team. Early, consistent support for the family could be provided as well as continuity of service as long as need exists. Such social workers can also serve to facilitate communication with medical and research personnel about the psychosocial consequences of inherited diseases.

In the case of OI patients, in particular, the psychosocial consequences of the disease were marked by more variability and positive effects than one would have expected on the basis of theory or commonsense expectation. The predictors of such variability are largely unknown, a situation that is probably true for most other handicapping diseases at this time. The observed cases of OI were characterized by many of the individual traits typical of other handicapping diseases such as shortness in stature and deformity, and thus shared similar psychosocial consequences with them. Yet, it would be a mistake to generalize this similarity without further knowledge of the configurational aspects of inherited diseases. Although this study was not comparative, it seems safe to assume that the combination of factors in OI—stunted growth, normal intellectual functioning, bodily deformity, repeated fractures, and severe dental problems, among others—provides a configuration of consequences that differs significantly from most other disease entities. Only further comparative research can begin to make determinations of different configurations of complex psychosocial responses to inherited disease.

Within the classes and types of OI disease itself there are a number of differentiating psychosocial factors that warrant the utilization of different social work practice interventions. For example, in *familial* cases of physically debilitating genetic disease it would be important for the worker to learn what meaning the disability has for the affected individuals. Focus should revolve around an acceptance of limitations and concentration on realistic goals. Family planning and premarital explorations should include concrete genetic information about the disease. In *sporadic* cases, genetic diagnosis precipitates a crisis situation, and immediate interaction and contact is often crucial.

Social workers should remain cognizant of specific familial dynamics and potential problem areas that frequently occur within families with genetic diseases. These include parental feelings of guilt and inadequacy, the tendency to overfocus on and overprotect the affected child, the propensity for marital discord and stress, and the sometimes dysfunctional involvement of extended family members. It is frequently useful to involve extended family members in genetic counseling and in promoting the acceptance of the child and his disease. This helps to establish a groundwork for continual support and encouragement for overwhelmed parents and their affected child.

Although the precise psychosocial effects were unclear, the pervasive, interlocking themes of relative immobility and continuing dependence at least have limiting effects on life satisfactions and achievements. Although the adaptations of OI-affected persons were sometimes remarkable, the constraints on their lives were evident in educational attainment, job finding, and job retention. A better developed and coordinated vocational rehabilitation service that can effectively cope with job training, job location, job retention, as well as increasing job opportunities while minimizing discriminatory practices is evidently needed.

The key to increased opportunities for OI-affected persons lies, in part, with solving the mobility problem: If physical access is impossible, then other program efforts are doomed to failure. Although there are often existing community transportation programs, they are frequently piecemeal, inadequate, sporadic, and oriented more to meeting recreational needs than those related to employment. With so many fragmented programs in existence, it is perhaps time to develop city- or area-wide coordinated transportation services that can be more responsive to a broader spectrum of public need. It would have to be guided by a new philosophy-in-practice that goes beyond promoting life satisfaction through planned events and activities and aims toward promoting independence and self-sufficiency by bringing together the immobile with their opportunities for achievement.

The often unpredictable and far-ranging psychosocial consequences and the continual drain of financial resources that are associated with most debilitating genetic diseases create a challenging opportunity for the profession of social work to find new ways to help these socially neglected families.

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YOU STATE THAT VOCATIONAL TRAINING WAS YOUR TOTAL SCHOOL EXPERIENCE. DOES THIS MEAN THAT THERE WERE NO EDUCATIONAL SERVICES AVAILABLE TO YOU AS A CHILD?

In the rural, Western Pennsylvania township where I lived as a child, there was no home teaching program. Grades were taught in scattered, one-room schools that were fairly inaccessible especially in winter, and without plumbing. Private schools were non-existent. High schools were located in small towns, four to ten miles from my home, with inaccessible buildings. Lack of a wheelchair until I was 19 added to my immobility.

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AS YOU KNOW, THE EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975 MANDATES THAT ALL HANDICAPPED CHILDREN AGED 3-21 HAVE AVAILABLE TO THEM BY 1980 A FREE APPROPRIATE PUBLIC EDUCATION. HOW SHOULD THIS ACT IMPACT ON THE LIVES OF CHILDREN WITH OSTEOGENESIS IMPERFECTA?

I believe the major impact of this Act on the lives of children with osteogenesis imperfecta will be the provision of physical accessibility of school facilities. This would include transportation to the school, access to the building, accessible washrooms, and appropriate equipment such as desks of lowered height, etc. Under the new Education Act, these objectives can and should be met.

The child affected with OI can be easily mainstreamed into the regular classroom because the condition is physical and modifications of the curriculum would not be necessary. Re-training or in-service training of teachers and other school staff would be limited to information on what osteogenesis imperfecta is, and how it affects a child's physical development.

I must emphasize that although formal education is an important aspect of a child's development, it is not the first contact with the world. It is essential that a child with OI have the necessary skills to enter into the formal education system. Presently the child severely affected by OI is extremely limited. However, should OI be included in the Developmental Disabilities Act, the possibilities for the child increase. The fact that OI is not now included limits the opportunity for the child and the parents to receive services. Inclusion in the DD Act would assist the OI child and parents in a number of ways:

1) One of the major responsibilities of DD is to assist in coordinating available medical and social services. For OI, this could include parental instruction in the care of an OI baby, family counseling, and location of medical facilities equipped and knowledgeable in the treatment of OI.

2) As a part of the DD Act, OI would become more visible and the level of public awareness raised. This is essential if increased support for medical research and genetic counseling are to occur.

3) As a part of the DD Act, early intervention is a high probability, and, acting as a central source of information, the State Developmental Disability Councils could provide immediate assistance to parents.

I re-emphasize that although school systems need to become more responsive to the OI child, the initial assistance for the child and the parents needs to precede the child's formal education, and at the present time the most appropriate assistance can be provided by inclusion of OI in the Developmental Disabilities Act.

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Senator STAFFORD. The hearings tomorrow, we emphasize again, will begin at 9 o'clock and will be in room 4200 rather than this room—4200 being on this floor but in the south wing of this building.

At this time, the Chair announces the subcommittee is in recess until 9 o'clock tomorrow.

[Whereupon, at 11:30 a.m., the subcommittee recessed, to reconvene at 9 a.m., Tuesday, March 22, 1977.]

REVIEW OF PROGRAMS FOR THE HANDICAPPED, 1977

TUESDAY, MARCH 22, 1977

U.S. SENATE,
SUBCOMMITTEE ON THE HANDICAPPED
OF THE COMMITTEE ON HUMAN RESOURCES,
Washington, D.C.

The subcommittee met, pursuant to recess, at 9 a.m., in room 4200, Dirksen Senate Office Building, Senator Jennings Randolph (chairman of the subcommittee) presiding.

Present: Senators Randolph and Stafford.

Staff present: Mrs. Patria G. Forsythe, staff director.

Senator RANDOLPH. Good morning. It's a pleasure to welcome all of our witnesses and guests.

This morning we are pleased to have with us representatives of the Department of Health, Education, and Welfare. We invited the Secretary and his representatives to comment on S. 725, a bill to extend certain programs under the Education of the Handicapped Act, which I introduced on February 11. This is a simple extension of title VI of Public Law 91-230, the Education of the Handicapped Act, to continue the discretionary Federal legislation aimed at assisting the States in carrying out their responsibilities to provide a free appropriate public education to all handicapped children. It continues the Bureau of Education for the Handicapped as the administrative unit in the Office of Education with the responsibility of implementing mandated programs and providing national leadership in this critical area. The extension of these discretionary programs, through the support provided under the authority of parts C, D, E, and F of the Education of the Handicapped Act, provides the basic foundation for the implementation of part B, the grants to States program. These programs provide the research, professional personnel, media and centers which constitute the vital supportive services needed to bring about our commitment to America's handicapped children.

In keeping with President Carter's recommendation to the new Cabinet Members that those advisory committees which have served their purpose should be terminated, we have eliminated section 604 of part A, which mandated an advisory committee to the Commissioner to assist him in the development of the Bureau of Education for the Handicapped. Now that the Bureau is in its 10th year, we feel sure that the compelling need for an advisory committee no longer exists.

We have also taken the activities for children with specific learning disabilities, earmarked for funding under part G, and folded them into the other parts of this law. In 1975 the definition of handicapped children was amended to include children with specific learning disabilities, and activities for these children have been supported under all parts of this law. The need for a separate authority and a separate unit to administer this authority no longer exists. The subcommittee feels that this action will amount to a savings of funds for administration as well as providing equal attention to specific learning disabilities as is being given to the other disabilities included in the definition of handicapped children.

This is a rather lengthy statement, but I thought it should be a part of the record this morning.

We are not certain of the correct names of those appearing today, so we will give those at the table an opportunity to introduce themselves. Why don't you identify yourself and introduce your colleagues as we begin the testimony. We are very happy to have you here.

STATEMENT OF WILLIAM F. PIERCE, ACTING COMMISSIONER OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY EDWIN W. MARTIN, JR., BUREAU OF EDUCATION FOR THE HANDICAPPED, OFFICE OF EDUCATION; AND LINDA CHAVEZ, ACTING ASSISTANT SECRETARY FOR LEGISLATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Dr. PIERCE. Thank you, Mr. Chairman. I am William Pierce and I am Acting Commissioner of Education. As you know Commissioner-designate Boyer has not as yet been confirmed. His confirmation hearings are scheduled for the 25th of this month, and absent that very important activity, I am here representing the Secretary and the Commissioner. With your indulgence, I would like to read a statement into the record.

I would first like to introduce Dr. Edwin Martin, Jr., the Acting Deputy Commissioner, Bureau of Education for the Handicapped, and Miss Linda Chavez, Acting Deputy Assistant Secretary for Legislation, both of whom accompany me this morning.

It is a pleasure to appear before this subcommittee to testify on S. 725, to extend the various discretionary grant programs in the Education of the Handicapped Act. The administration is in the process of conducting a general review of all educational programs with a view toward determining how they may be improved and coordinated. It is for this reason that we have decided upon an across-the-board policy of seeking 1-year extensions of expiring educational authorities.

Mr. Chairman, if I speak too fast for the interpreters, I hope that the interpreters will slow me down.

Senator RANDOLPH. Your statement is being signed to deaf persons present. However, it might make it easier for them if you would slow down.

Dr. PIERCE. I will. I understand it is difficult for the interpreters to go as fast as I am inclined to read. I hope that Dr. Martin will stop me if I speed up again.

As you are aware, the bulk of Federal funds for the education of the handicapped is devoted to the State grant program (part B), as amended by Public Law 94–142, the Education of All Handicapped Children Act of 1975. Public Law 94–142, to be in full operation for the first time in school year 1978–79 changes part B in the following ways:

Explicitly states that Federal policy is to assure access to free, appropriate, public education for all handicapped children by the States;

Specifies that the unserved have first priority and the most severely handicapped have second priority for services relative to all handicapped children;

Indicates that the handicapped are to be served in the least restrictive environment consistent with their needs and abilities;

Specifies that each child shall have the benefit of annual, individualized evaluation and prescription.

The discretionary grant programs of the Education of the Handicapped Act will provide supplemental support, as you indicated, to demonstrate and disseminate model programs, to train special education personnel, to foster regional approaches and cooperation, to increase the knowledge base in special education through research and development activities and to provide certain services to the handicapped for which there are no other available services. Through a combination of technical assistance, monitoring, direct aid, and capacity building activities, Federal efforts in the area of education for the handicapped will help to assure that all States will meet the mandate of the law to provide full educational opportunity for all handicapped children and to improve the quality of the services provided.

Taking each in turn, Mr. Chairman, I would now like to review with you the discretionary programs beginning with part C—centers and services to meet special needs of the handicapped. Under section 621, 13 regional resource centers (RRC) and a national coordinating unit offer training for personnel in special education skills, technical assistance in the development of State plans to serve the handicapped, direct referral services and assistance to LEA's and SEA's in adopting models of multidisciplinary referral services. In 1977, approximately 90,000 children will receive services through the RRC's and about 9,000 personnel will obtain training. Regional resource centers are concentrating their attention on helping State and local agencies with the new requirements of Public Law 94–142 which are within their authorized scope, particularly the development of individual education programs and nondiscriminatory testing. Given the accomplishments of recent years, the need for this authority may diminish, since local or State programing for handicapped children should become adequate.

Our program for the deaf-blind (section 622) has been enormously successful in creating educational opportunities for these catastrophically impaired children. More than 4,500 educational placements are now served by 10 centers, as contrasted with less than 100 served by 6 centers when the program was initiated in 1969. Despite this evidence of growth, considerable regional variation exists in amount and quality of service provided. According to program data, of the estimated 5,000 to 7,000 deaf-blind children, 5,996 have been identified. Of the identified children, 1,480 are receiving no full-time or part-time education services. An additional 300 deaf-blind children now receiving part-time educational services are in need of full-time educational programs.

Our long range plan is to terminate this program as the full implementation of Public Law 94-142 becomes a reality. However, discussions with the States indicate that termination of the program now would cause severe problems and result in children failing to receive appropriate educational programing. Although the States are more than matching the Federal share, the costs per pupil are so high—$8,000 to $10,000 per pupil—that sudden termination would face many communities with impossible budget demands. In addition to this dollar issue, major drawbacks in reaching the program goals have been the acute shortage of trained teacher and teacher-aide personnel, inadequacy of facilities, and the lack of availability of instructional materials and technology.

The early childhood education program authorized by section 623 has been one of the most effective Federal programs for the handicapped. Its impact has been enormous in stimulating interest in, and providing new approaches to, early childhood education. The Federal strategy is to build the capacity of State, local, and private nonprofit educational organizations to establish and expand programs for preschool children that use the best tested practices. Since Public Law 94-142 requires educational services for children beginning at age 3 (if permissible under State law), this capacity-building program will complement the main service efforts required of States and LEA's by developing more effective models of preschool interventions. Our claims of success in the area are supported by a third party evaluation conducted by the Battelle Memorial Institute from 1973 to 1976. This study concluded that the projects promoted social-personal growth, influenced growth in adaptive, cognitive, and communication areas. If I were to be allowed only one argument for the continuation of this effort, I would point out that of the approximately 1 million preschool children (0-8 years of age) having handicapping conditions, just 30 percent of these children are being served in varying degrees through demonstration and outreach projects, Headstart and day care programs, public education day programs, and through State supported activities.

Another major programing area in part C is section 625, which provides vocational, technical, postsecondary, and adult educational opportunities for deaf and other handicapped persons. It is directed to career education and the supportive services relative to career placement, and to the teaching of skills necessary for successful and rewarding functioning in daily life. Programs include, but are not limited to, preparation for job placement in the white collar, skilled, and unskilled occupational categories. In an attempt to maximize the best utilization of resources, priority funding consideration is given to:

Programs serving multi-State regions or large population centers;

Programs adapting existing programs of vocational, technical, postsecondary, or adult education to the special needs of handicapped persons; and

Programs designed to serve areas where a need for such services is clearly demonstrated.

The total number of handicapped persons served in fiscal year 1976 was 2,654, of which 785 were deaf, the largest group served by this program, and 25 seriously emotionally disturbed, the smallest population group. Our projects are successfully demonstrating the abilities of persons with handicaps to participate in regular programs if provided with appropriate support services. The projects are providing educational opportunity at costs considerably lower than those associated with specialized institutions, although specialized institutions play a legitimate role in a total service delivery system. This is an area in which we can expect considerable demand for assistance, particularly as the provisions of section 504 of the Rehabilitation Act of 1973 require increased access to higher education.

Mr. Chairman, let us now focus on the special education manpower development program, part D, the extension of which is critically needed. The full service mandate of the Education for All Handicapped Children Act and the provision that handicapped children be placed in the least restrictive environment has underlined the need not only for special education teachers but for special training for teachers in regular classrooms, as well. There is a great need to improve the capability of institutions of higher education to adequately train those preparing for or already engaged in regular classroom teaching and administration. Our estimates indicate that in order for the educational system to meet its full service need commitment of 500,000 teachers, an additional 260,000 specially trained teachers will be required.

In academic year 1976-77 assistance was provided to approximately 8,030 pre-service students, 13,700 in-service students and 11,543 regular classroom teachers through 604 projects. Those projects concentrated on the following activities:

Educational personnel needs of severely handicapped children;

Training of minority group specialists to serve the educational needs of minority group handicapped children;

Early childhood training;

Paraprofessional training;

Training of regular classroom teachers to meet the needs of handicapped children in regular classroom situations.

Part D also contains a special authorization (section 633) for grants and contracts to disseminate information about education for the handicapped, to provide referral services for parents of handicapped children in order that they may be assisted in their attempts to locate appropriate educational programs for their children, and to encourage people to enter the field of special education. Again, this effort is obviously an essential complement to Public Law 94-142.

Part E funds research and development activities to improve educational opportunities for handicapped children and the performance of their teachers. Activities supported include the development, validation, and dissemination of alternative educational approaches to problems specific to the education of the handicapped. Also included is the examination of such issues as the least restrictive arrangements for service delivery and the availability of materials and curriculum; and other products of research, to assure their broadest possible utilization and implementation.

Our continued targeted program approach reflects a reassessment and prioritizing of research issues based on the advice of professionals and constituent groups obtained through conferences and panel meetings. Currently the funds are distributed based on the following activities:

Early childhood education.
Full school services.
Career education.
Severely handicapped.
Personnel development.
Child advocacy.

At present, Mr. Chairman, the demand for research support is so great that only 5 to 8 percent of the requests can be funded.

Part F is a permanent authority and does not expire at the termination of fiscal year 1977. The objective of the program is to provide handicapped learners with special educational materials. Among the major program thrusts are:

Captioned films for the deaf reaching an annual audience of more than 3.5 million individuals;

Captioned TV and telecommunications programs which reach literally millions. For example: Captioned news which is broadcast 5 nights weekly, is estimated to reach approximately 6 million viewers per each nightly broadcast.

Area learning resource centers.
National Center of Educational Media and Materials.
National Theater of the Deaf.
Marketing and implementation activities.

With your permission and your indulgence, Mr. Chairman, I would like to deviate from the prepared testimony just for a moment and ask Dr. Martin to describe to you an exciting example of how Federal funds can be used to assist deaf individuals.

Dr. MARTIN. Mr. Chairman, I thought we would take just a second to talk about an example of marketing, which is one of our newest activities. What we are attempting to do is to take the products that the Government has paid for and developed under the new research program and to assist valuable ones which are not finding their way into use. One of the products I thought you would be interested in, knowing your history of interest in the blind through the Randolph-Sheppard Act, and through this committee, is a device called an optacon. This machine has an optical scanning device which takes printed material and converts the letters to an image that can be felt by a blind person. This allows the blind person to feel letter by letter the shapes of the actual print. When a person learns to use this device, he is not totally dependent on braille.

We have paid for substantial research to develop this device, but the cost remains high. The costs run more than $3,000 an instrument, so the optacon has limited availability. This year we are hoping to buy about 300 of these devices and make them available to schools for the blind across the country. I just want to share with you one of our first responses. The first person to begin a daily schedule with the optacon is a very bright 10-year-old girl who has only enough vision to move about by herself in daylight. Although accomplished in braille for her age, she was able to learn what print looked like and demonstrated excellent recognition skill with the optacon. She has returned to Guadalupita, N. Mex., and with her joy in reading and her love for reading, in general, it is difficult to think of her not having the optacon available.

We also conducted an optacon test on a very bright girl in the Los Alamos public school and she went on to do quite well on it. She could read flawlessly with it, but unfortunately her parents could not realistically afford the purchase price.

So what we are doing has a dual implication. First, we are converting this research into practice by making these optacons available to schools for the blind. Second, we have an arrangement with the producers to try to reduce the costs so that over a 3-year period of time we will have made available about 1,000 optacons. In addition, we will have trained teachers in every State to teach children to use them and we will have driven the cost down to the point that they will be more accessible to public schools and other educational institutions.

We particularly wanted to call this effort to your attention because I think for so long this committee and others have wanted to establish that the benefits of the Federal programs will really take hold and be used by people.

Dr. PIERCE. I can conclude my statement very quickly, Mr. Chairman, by saying that returning to the Education of the Handicapped Amendments of 1977 the Office of Education is in agreement with your decision not to extend part G—special programs for children with specific learning disabilities. The rationale for ending the special program for children with learning disabilities is that Congress has now included such children in the basic definition of "handicapped" and they are eligible for support under the grants to State and local agency provisions. Our general programs which support research and training can also be used to support activities in the area of learning disabilities.

You should be aware, however, that approximately $5 million in child service projects in the learning disability area are now being supported under part G, and some provision should be made for continuing these projects until they are completed or until support for them can be arranged under other authorities.

As a final note, we would like to focus attention on the areas of research, innovation, and demonstration relating to the education of the handicapped. We are currently supporting various activities in this area under part C—severely handicapped, early childhood, and adult programs—part E—general research—and part G—learning disabilities. Each of these authorities has special conditions and limitations which apply to projects supported under it. We believe the time has come to consider a more comprehensive approach to the need for research and demonstration in the education of the handicapped and we are looking toward a consolidation of these current authorities into a more general authority for the support of research and demonstration. Therefore, while supporting the extension of existing authorities in this area for an additional year, we hope the subcommittee will be receptive to any later proposals we may offer to provide such a comprehensive approach for the support of this important work.

Again, Mr. Chairman, let me thank the subcommittee for its leadership in the area of education of the handicapped. This concludes our prepared statement and Dr. Martin and I will be happy to answer any questions you have.

Senator RANDOLPH. Thank you very much, Dr. Pierce and Dr. Martin.

I want to, as I often try to do, I want to identify what a person has done who comes to testify at the witness table. I think the record should show, Dr. Pierce, what kind of work you have been in and so forth.

Dr. PIERCE. Mr. Chairman, I joined the Office of Education in 1973 as the First Deputy Commissioner for the Bureau of Occupational and Adult Education. In July of this past year, when Dr. Bell left the Office of Education, I became Acting Commissioner. I served in that capacity until Dr. Aquirre was sworn in and then served as Acting Executive Deputy until Dr. Aquirre left with the change in Administration. I have been again Acting Commissioner since January and will remain in that seat until Dr. Boyer is confirmed.

I have had some experience working with Dr. Martin in trying to coordinate programs for the handicapped through his Bureau and the one that I was responsible for.

Senator RANDOLPH. Thank you, Dr. Pierce.

When are we going to get Dr. Boyer?

Dr. PIERCE. We will give you Dr. Boyer after the 25th, when his confirmation hearings are scheduled.

Senator RANDOLPH. Yes, I know they are scheduled.

Dr. Martin, you brought to our attention the optacon. We heard Mr. Bliss in our earlier hearing. I believe he would be called the inventor or at least he heads up the organization. Dr. Stilwell of West Virginia University, who is blind, has worked with him and continues to work with him, as does his wife. We are very impressed, of course, with this instrument, which is creative and provides opportunities as never before.

You mentioned the $3,000 price. Can you state to the subcommittee what the price would be if they were manufactured in certain amounts?

Dr. MARTIN. No. We have an agreement with the developers that one of the conditions of the contract would be for them to reduce the price by virtue of the fact that we are offering a stable market over 3 years. They are now doing cost estimates for the first year and before we extend the contract for a second year, we will have an estimated cost. We are now able to purchase the machine for $2,000. They are finding a market now, and a number of private foundations and others have helped, but our hopes are that we can bring about a substantial reduction in the cost of optacons. We will know this more definitely at the end of this first year of experience.

I might say, Mr. Chairman, I think you also had a chance to see Mr. Kurzweil's invention which we are also supporting. This is a similar kind of reading device, but this one reads out loud to the audience, in fact, two of the more exciting pieces of technology to help develop these have both been supported under the Education of the Handicapped Act.

Senator RANDOLPH. I believe we have one in Institute, West Virginia.

Dr. MARTIN. It is a fascinating machine. I have seen the tapes of it and heard it reading out loud and it just is a wonderful demonstration of how technology in the last few years has really been converted to use for disabled people.

Senator RANDOLPH. You mentioned foundations as a possible source of support. What foundations are you thinking of?

Dr. MARTIN. My understanding, Mr. Chairman, and I will be sure to confirm this for the record, is that the Mellon Foundation made available some funds for blind persons in the State of Pennsylvania to use the Optacon. That is the information I had about a year ago and I need to be sure it is Mellon, and I will correct it if it is not and cite the right foundation.

Senator RANDOLPH. You will keep us advised when you have further information on the cost figures?

Dr. MARTIN. Yes, I certainly will. The benefits of the program are such that we could probably justify the kind of effort we are making right now to make these available at schools for the blind to teach youngsters even if the price didn't go down, because of the lifetime value of them. Our hope is that the added power of Federal marketing will allow the devices to be more competitive.

Senator RANDOLPH. Dr. Martin, I think you will agree with me that the Optacon and the Kurzweil Reading Machine are not actually competitive. I think they are complementary one to the other, in a sense.

Dr. MARTIN. Yes. They have different assets. The Optacon, for example, at this time is quite a small portable device that a person could carry with him in his pocket or in hand. The Kurzweil device at this time hasn't reached that stage of portability, so we have encouraged the continued development of both. That is one of the reasons why I think the Federal Government should be in this kind of business, Senator, because in each of these instances the inventors of these devices began this work on his own. They had a good and creative idea and they came to the Government and asked for some help in doing what they couldn't do solely from private resources. I think that the Government should continue in the research business. That is one of the reasons we are supporting the bill for the extension of part E, so that we can continue to do that. The figure Dr. Pierce mentioned on research awards is just one way we have of demonstrating the fact that there is a tremendous interest in more research in this area. We feel one of the priorities over the next few years should be for the expansion of our research programs so that persons have a better chance of getting a successful grant under the program than they now do.

Senator RANDOLPH. Ed, we are very appreciative that you accompanied Dr. Pierce. We have known your work for a long time and have had the opportunity to share with you the implementation of these programs. You have been in the program about 10 years, as I recall; is that right?

Dr. MARTIN. That is right, sir. When the Congress first established the Bureau in 1967, I began to work there as the Deputy Director.

Senator RANDOLPH. And you moved into the position of Director?

Dr. MARTIN. Yes.

Senator RANDOLPH. What was the date on that?

Dr. MARTIN. It has had a series of dates. The first time I moved into the position as Director was about 1969 or 1970, and then several years later the position was changed from Associate to Deputy Commissioner. I was still the Director of the Bureau, but at a different level. Since about 1973 I have been acting in that position and I remain acting in it at this time. I am still Director, but it is now called Acting Deputy Commissioner.

Senator Randolph. Well, you shifted from one position to another, but you have been there longer than the others, is that right?

Dr. Martin. That is right. With the help of this committee and some others, we have seen the program grow. You may remember, Senator, at the time when you first became chairman of this subcommittee and established it, the bill that passed, Public Law 93-380, your bill, and later a bill that you supported with Senator Williams and others has resulted in a marked increase in Federal efforts. We had about $50 billion in President Carter's budget, as a direct result of this subcommittee's efforts.

Senator Randolph. Thank you very much. You know, Dr. Pierce, Dr. Martin, and Miss Chavez, we want to be very cooperative. We, of course, have to make decisions here and we will discuss those in a moment. Yesterday, Dr. McGuire, vice president of the National Education Association, spoke to the subcommittee of the many handicapped native American children, and said that they were not receiving the necessary educational services. You might wish to comment on this: Is there a remedy? I am sure you are aware of the problem.

Dr. Martin. There are several factors, Senator, that point to a better future than the Indian handicapped children have had in the past. The first is that the children are covered under the Education for All Handicapped Children Act. We have begun working with the Bureau of Indian Affairs cooperatively so that they might develop a plan for Indian children with disabilities, to assure them the same rights that children have who attend schools in local education agencies.

In addition to those efforts, we have also set up within our program which provides assistance to the States, a small advocacy unit which will deal with special populations of children, like the Indian children and other children who are frequently a minority within a minority. Finally, we have funded, under a number of our discretionary programs, such as the early childhood program and other demonstration programs some projects designed to encourage participation of Indian children. We have had a grant with the Yakima Indians of Washington and another in the Southwest and have sponsored some activity on the Rosebud Reservation in South Dakota training paraprofessional personnel to work in the area of education of the handicapped. There are some activities, but I agree with you that there is a tremendous need in the Indian population in general to improve education and it is only a logical extension that the handicapped Indian children are going to have increased problems.

Senator Randolph. I am not sure, Ed, but sometimes I think that it would be much better to bring all of these programs under one head, with the necessary expertise. I think a better administrative job can be done if programs are less fragmented. We think that we give the special attention needed, but sometimes that necessary special attention cannot be given as well through fragmented programs. Would you care to comment?

Dr. Pierce. Before he does, Mr. Chairman, may I say a couple of things? Most of the programs that Dr. Martin referred to are under his administrative leadership right now, with the exception, of course, of the BIA programs.

Senator Randolph. The Indian children are not?

Dr. **Pierce.** Most of the programs he described are the efforts going on in his Bureau for Indian children, except the BIA programs, and the Indian children, of course, are still the principal responsibility of BIA. In the Office of Education, in addition to Dr. Martin's program, we have an Office of Indian Education, for which there are now some $45 million available, which may be used for handicapped Indian children, as well. I don't mean to imply that all of that money or even most of it goes for handicapped children, but it is possible, and there are indeed projects around the country that are supported by that program for handicapped Indian children. Under the new vocational education legislation, 1 percent of that appropriation must be set aside for Indians and we have always had the 10 percent set aside for the disadvantaged. The point I want to make is that there are some other programs within the Office of Education which do indeed address the problem that you are concerned about this morning. I don't want to imply that there is duplication of effort, because the need is so fantastically great, not only for Indian handicapped, but for all handicapped young people, that we are just really scratching the surface with the Federal program.

Now, Ed, you may want to answer directly the Senator's question.

Dr. **Martin.** Well, I think probably that is an issue that has a broader implication. I was interested in your comments about it. One of the general policies we followed, Senator, has been to try to get whatever basic educational unit was responsible for educating nonhandicapped children to expand their mission to include better service for the handicapped.

Dr. Pierce mentioned that he and I worked together in his role as Deputy Commissioner for Occupational and Adult Education to try to increase the participation of handicapped children in the vocational education program. That is an alternative, for example to our trying to administer the handicapped portion of the vocational education program. I do think that one way or another, either through the existing mechanisms or some other way that we need to focus more sharply on Indian children, and I think the new Education for all Handicapped Children Act gives us a better vehicle for doing the kind of planning and doing the kind of data collection that will allow us to know how well the Indian children are being served.

Senator **Randolph.** It might be helpful to you, Ed, to have some discussions with Dr. McGuire. We can provide to you the testimony on this particular item.

Dr. **Martin.** Mr. Chairman, I will get in touch with him and find out what his suggestion is.

Senator **Randolph.** You and Dr. McGuire may be able to help one another.

Dr. **Martin.** All right. Thank you, sir.

Senator **Randolph.** At this point I want to take a moment to welcome the Gallaudet College students who are in the hearing room this morning. They are here as students of government and political science. I think that I am still a student in that area after 33 years here in the Congress. It is a continuing effort. But we are genuinely appreciative of the fact that you are actual participants in this hearing. You know what is going on and we commend those that made the arrangements for all of you who are present. Come back again when you have the opportunity.

Miss Chavez, did you have some comments you wished to make?

Miss Chavez. No.

Senator Randolph. How long have you been with the Department?

Miss Chavez. I have been with the Department for 3 weeks.

Senator Randolph. Three weeks?

Miss Chavez. Yes, 3 weeks. Most recently I was assistant director of legislation for the American Federation of Teachers and I also worked with the National Education Association, and prior to that I was a member of the staff of the House Judiciary Committee.

Senator Randolph. Thank you. It appears you have a background that will be helpful. I hope the teachers will not strike throughout America as they were striking yesterday in Missouri, with 51,000 children unable to go to school. We all know it is detrimental for a handicapped child to miss even 1 day.

We need to think more about this subject, and hopefully all of us will realize that there is a certain commitment that must be made. I am not a carping critic, but I am continually concerned about the apparent spread of teacher strikes throughout the public school system in the United States. I don't ask you to comment on that, but yesterday I did ask Dr. McGuire and his associates to comment on it.

Now the policy of the Domestic Council, as we understand it, is to recommend a 1-year extension for all programs; is that correct?

Dr. Pierce. That is correct.

Senator Randolph. And it is our further understanding that this policy has been proposed so that there could be an evaluation of ongoing programs, is that correct?

Dr. Pierce. That is correct.

Senator Randolph. You know, Dr. Pierce, that the subcommittee has conducted extensive hearings on all of the legislation under our jurisdiction. S. 725, as I mentioned in the opening remarks, is just a simple extension of discretionary education programs for the handicapped. These programs, we think, have been highly successful in assisting States. We have had 8 days of hearings so far, beginning on February 7. We look upon educating handicapped children as a very real challenge, a commitment to be met now. I think the witnesses, without exception, have supported the extension program.

Now, would you tell us your objections, if there are any particular ones, to S. 725 as it was introduced?

Dr. Pierce. We do not have any objections to S. 725 as it was introduced. Indeed, we support the legislation, Mr. Chairman.

Senator Randolph. That is a good way to end. However, we do have a few more questions that I want to ask. It is our understanding that HEW has been in the process of installing four types of furniture for what we call open office areas to be studied so that the needs of the physically handicapped might be better served in the South Portal Building. I am not sure that you are able to indicate just exactly or precisely when the study began. Can you tell me?

Dr. Pierce. No, sir, I am not familiar with the study.

Senator Randolph. They are technical questions, perhaps, and maybe it is best that I give them to you in writing and then you can supply responses to the questions.

Dr. **Pierce.** We will be happy to supply that for the record.

Miss **Chavez.** I am familiar with that. They are trying to work with the open space concept in the South Portal Building, but I am not aware of the study.

Senator **Randolph.** Well, we will give you these questions in writing and then you can get the answers back to us as soon as possible. Are you in the South Portal Building?

Miss **Chavez.** Yes, I am.

Senator **Randolph.** Is there a vending facility in that building?

Miss **Chavez.** Not yet. There is only a cafeteria.

Senator **Randolph.** Who operates it?

Miss **Chavez.** I really don't know.

Dr. **Martin.** I believe it is ARA.

Dr. **Pierce.** I was going to say GSI.

Dr. **Martin.** We can't give you a definitive statement on that, but it is one of the large companies that runs cafeterias. It is my impression it is ARA and others think it is GSI. I am not sure.

Senator **Randolph.** We continue not only to be interested, but also very concerned sometimes about the failure in the Federal Government to provide vending facilities to be operated by the blind. We do better in areas other than Washington, very frankly, and we hope you can give us some information. If you cannot reply this morning, we will understand. If you could provide that for us in writing, we would be most appreciative.

Dr. **Pierce.** We will provide that for the record, Mr. Chairman. The specific questions you have, we will be glad to answer.

Senator **Randolph.** We will prepare the questions and give them to you. As you know, Government at the Federal level has lagged behind that at the State, local, and regional level in the implementation of the vending program.

Dr. **Pierce.** We are very familiar with that, Mr. Chairman. Dr. Martin and his Bureau has recently moved to another location in another Federal building and we have been going through the trials and tribulations of trying to get ramps installed in the building and restrooms corrected or constructed in such a way that they accommodate the handicapped and we know how hard it is not only to move into a new building, but to get those facilities changed if it is an old building because it was not built under the specifications, and we are familiar with the problem you are addressing.

Senator **Randolph.** This is, in some instances, difficult, but it can be accomplished and we would like for you to give us in writing a report on what is being done.

Dr. **Pierce.** Yes, sir, we certainly will and it can be accomplished by various ways. One of the ways we accomplished it was to refuse to move until they started building a ramp and correcting the restroom facilities, and that seemed to work reasonably well.

Senator **Randolph.** Of course we remember when there were no ramps in this building and other buildings on the Hill and that was not very long ago. We continue to work and hopefully will make the progress we wish could have been made earlier.

We are very appreciative of your testimony today. Are there any further comments?

Dr. **Martin**. I wanted to say about the vending stand matter that we will look into that specifically. There are vending stands run by blind operators in the other buildings in the Office of Education which is housed in the FOB-6, and the regional office building and HEW North Building and we will get for the record the answer on the other problems.

Senator **Randolph**. What I was thinking about was some of the new buildings. Would you bring us up to date on what has been done and what is planned for the near future?

Dr. **Martin**. Just before I close, I would like to provide you one new publication, Mr. Chairman. I have here an early version of the College Guide for Students with Disabilities, which is a new publication as a result of one of our studies. It lists over 500 colleges now that have special facilities of some kind for disabled people and we are making this available to you now, and I will leave it here for the committee.

Senator **Randolph**. Thank you. This is our first look at it.

Dr. **Martin**. We are really pleased to have it.

Senator **Randolph**. May we have a copy for each of the members of the subcommittee?

Dr. **Martin**. I am going to arrange to get them. Right now we are in the process of buying some of these, in addition to the ones we received under the contract, and we will be asking the Government Printing Office to make them available, too. I will leave this one and we will see if we can't get others for each member.

Dr. **Pierce**. Mr. Chairman, we appreciate the opportunity to come before you this morning in this continued series of hearings, and if there are any further questions that you would like to submit for the record, we would be happy to answer them, as well.

Senator **Randolph**. We will submit those questions to you.

I think that it is appropriate for me to say that Senator Williams, who chairs the Committee on Human Resources, has told me that he is engaged this morning in the conduct of the hearings on the Common Situs Picketing bill. I was urged by many people to be there, but you can't be at two hearings at one time, so I am here. He has some questions and they concern budgeting. I think we will just give those to you and then you can respond in writing.

Dr. **Pierce**. We certainly will.

Senator **Randolph**. I know that he would be here if he could. He is very interested in what this subcommittee is doing. Eventually we have to carry, as you well know, our recommendations to the full committee before we have floor action.

Again our appreciation. Thank you very much.

We will have a 2 minute recess.

[The prepared statement of Dr. Pierce and information referred to follows:]

FOR RELEASE UPON DELIVERY

Statement by
The Honorable William F. Pierce
U.S. Office of Education
Department of Health, Education, and Welfare
Before the
Subcommittee on Handicapped
Committee on Human Resources
United States Senate
Tuesday, March 22, 1977
9:00 a.m.

Mr. Pierce is accompanied by:

Edwin W. Martin, Jr., Acting Deputy Commissioner, Bureau of Education for the Handicapped, OE

Linda Chavez, Acting Deputy Assistant Secretary for Legislation (Education), HEW

Mr. Chairman:

It is a pleasure to appear before this Subcommittee to testify on S. 725 to extend the various discretionary grant programs in the Education of the Handicapped Act. The Administration is in the process of conducting a general review of all educational programs with a view toward determining how they may be improved and coordinated. It is for this reason that we have decided upon an across-the-board policy of seeking one-year extensions of expiring educational authorities.

As you are aware, the bulk of Federal funds for the education of the handicapped is devoted to the State grant program (Part B), as amended by P.L. 94-142, The Education of All Handicapped Children Act of 1975. Public Law 94-142, to be in full operation for the first time in school year 1978-79, changes Part B in the following general ways:

--explicitly states that Federal policy is to assure access to free, appropriate, public education for all handicapped children by the States;

--specifies that the unserved have first priority and the most severely handicapped have second priority for services relative to all handicapped children;

--indicates that the handicapped are to be served in the least restrictive environment consistent with their needs and abilities;

--specifies that each child shall have the benefit of annual, individualized evaluation and prescription.

The discretionary grant programs of the Education of the Handicapped Act will provide supplemental support to demonstrate and disseminate model programs, to train special education personnel, to foster regional approaches and cooperation, to increase the knowledge base in special education through research and development activities, and to provide certain services to the handicapped for which there are no other available services. Through a combination of technical assistance, monitoring, direct aid, and capacity building activities, Federal efforts in the area of education for the handicapped will help to assure that all States will meet the mandate of the law to provide full educational opportunity for all handicapped children and to improve the quality of the services provided.

Part C--Centers and Services to Meet Special Needs of the Handicapped

Taking each in turn, Mr. Chairman, I would now like to review with you the discretionary programs beginning with Part C--Centers and Services to Meet Special Needs of the Handicapped. Under Section 621, thirteen Regional Resource Centers (RRC) and a National Coordinating Unit offer training for personnel in special education skills, technical assistance in the development of State plans to serve the handicapped, direct referral services, and assistance to LEA's and SEA's in adopting models of multidisciplinary referral services. In 1977, approximately 90,000 children will receive services through the RRC's and about 9,000 personnel will obtain training. Regional Resource Centers are concentrating their attention on helping State and local agencies with the new requirements of P.L. 94-142 which are within their authorized scope, particularly the development of individual education programs and nondiscriminatory testing. Given the accomplishments of recent years, the need for this authority may diminish, since local or State programming for handicapped children should become adequate.

Our program for the deaf-blind (Sec. 622) has been enormously successful in creating eudcational opportunities for these catastrophically impaired children. More than 4,500 educational placements are now served by ten centers, as contrasted with less than 100 served by six centers when the program was initiated in 1969. Despite this evidence of growth, considerable regional variation exists in amount and quality of service provided. According to program data, of the estimated 5,000 to 7,000 deaf-blind children, 5,996 have been identified. Of the identified children, 1,480 are receiving no full-time or part-time education services. An additional 300 deaf-blind children now receiving part-time educational services are in need of full-time educational programs. Our long range plan is to terminate this program as the full implementation of P.L. 94-142 becomes a reality. However, discussions with the States indicate that termination of the program now would cause severe problems and result in children failing to receive appropriate educational programming. Although the States are more than matching the Federal share, the costs per pupil are so high--$8,000 to $10,000--that sudden termination would face many communities with impossible budget demands. In addition to this dollar issue, major drawbacks in reaching the programs goals have been the acute shortage of trained teacher and teacher-aide personnel, inadequacy of facilities, and the lack of availability of instructional materials and technology.

The early childhood education program authorized by Sec. 623 has been one of the most effective Federal programs for the handicapped. Its impact has been enormous in stimulating interest in, and providing new approaches to, early childhood education. The Federal strategy is to build the capacity of State, local, and private non-profit educational organizations to establish and expand programs for preschool children that use the best tested practices. Since P.L. 94-142 requires educational services for children beginning at age three (if permissible under State law), this capacity-building program will complement the main service efforts required of States and LEA's by developing more effective models of preschool interventions. Our claims of success in the area are supported by a third party evaluation conducted by the Battelle Memorial Institute from 1973 to 1976. This study concluded that the projects promoted social-personal growth, influenced growth in adaptive, cognitive and communication areas. If I were to be allowed only one argument for the continuation of this effort, I would point out that of the approximately 1,000,000 preschool children (0-8 years of age) having handicapping conditions, just 30 percent of these children are being served in varying degrees through demonstration and outreach projects, Head Start and day care programs, public education day programs and through State supported activities.

Another major programming area in Part C is Sec. 625 which provides vocational, technical, postsecondary, and adult educational opportunities for deaf and other handicapped persons. It is directed to career education and the supportive services relative to career placement, and to the teaching of skills necesary for successful and rewarding functioning in daily life. Programs include, but are not limited to, preparation for job placement in the white collar, skilled and unskilled occupational categories. In an attempt to maximize the best utilization of resources, priority funding consideration is given to:

--programs serving multi-State regions or large population centers;

--programs adapting existing programs of vocational, technical, postsecondary, or adult education to the special needs of handicapped persons; and

--programs designed to serve areas where a need for such services is clearly demonstrated.

The total number of handicapped persons served in Fiscal Year 1976 was 2,654 of which 800 were mentally retarded, the largest group served by this program, and 25 seriously emotionally disturbed, the smallest population group. Our projects are successfully demonstrating the abilities of persons with handicaps to participate in regular programs if provided with appropriate support services. The projects are providing educational opportunity at costs considerably lower than those associated with specialized institutions, although specialized institutions play a legitimate role in a total service delivery system. This is an area in which we can expect considerable demand for assistance, particularly as the provisions of Sec. 504 of the Rehabilitation Act of 1973 require increased access to higher education.

Part D--Training Personnel for the Education of the Handicapped

Mr. Chairman, let us now focus on the special education manpower development program, Part D, the extension of which is critically needed. The full service mandate of the Education for All Handicapped Children Act and the provision that handicapped children be placed in the "least restrictive environment" has underlined the need not only for special education teachers but for special training for teachers in regular classrooms as well. There is a great need to improve the capability of institutions of higher education to adequately train those preparing for or already engaged in regular classroom teaching and administration. Our estimates indicate that in order for the educational systems to meet its full service need commitment of 500,000 teachers, an additional

260,000 specially trained teachers will be required.

In academic year 1976-1977 assistance was provided to approximately 8,030 pre-service students, 13,710 in-service students, and 11,543 regular classroom teachers through 604 projects. Those projects concentrated on the following activities:

- --educational personnel needs of severely handicapped children;
- --training of minority group specialists to serve the educational needs of minority group handicapped children;
- --early childhood training;
- --paraprofessional training;
- --training of regular classroom teachers to meet the needs of handicapped children in regular classroom situations.

Part D also contains a special authorization (Sec. 633) for grants and contracts to disseminate information about education for the handicapped, to provide referral services for parents of handicapped children in order that they may be assisted in their attempts to locate appropriate educational programs for their children, and to encourage people to enter the field of special education. Again, this effort is obviously an essential complement to P.L. 94-142.

Part E--Research in Education of the Handicapped

Part E funds research and development activities to improve educational opportunities for handicapped children and the performance of their teachers. Activities supported include the development, validation, and dissemination of alternative educational approaches to problems specific to the education of the handicapped. Also included is the examination of such issues as the least restrictive arrangements for service delivery and the availability of materials and curriculum;

and other products of research, to assure their broadest possible utilization and implementation.

In the past the innovation and development program has been criticized for its lack of clearly defined program goals and objectives and its selection of particular research projects for funding. However, several changes were implemented in FY 74 in order to improve the effectiveness of this program. Our new targeted program approach reflects a reassessment and prioritizing of research issues based on the advice of professionals and constituent groups obtained through conferences and panel meetings. Currently the funds are distributed based on the following activities:

--early childhood education

--full school services

--career education

--severely handicapped

--personnel development

--child advocacy.

At present, Mr. Chairman, the demand for research support is so great that only five to eight percent of requests can be funded.

Part F--Instructional Media for the Handicapped

Part F is a permanent authority and does not expire at the termination of Fiscal Year 1977. The objective of the program is to provide handicapped learners with special educational materials. Among the major program thrusts are:

--Captioned films for the deaf reaching an annual audience of more than 3.5 million individuals.

--Captioned TV and telecommunications programs which reach literally millions. For example: Captioned News which is broadcast five nights weekly, is estimated to reach approximately six million viewers per each nightly broadcast.

--Area Learning Resource Centers.

--National Center of Educational Media and Materials.

--National Theatre of the Deaf.

--Marketing and implementation activities.

Part G--Special Programs for Children with Specific Learning Disabilities

Returning to the Education of the Handicapped Amendments of 1977 the Office of Education is in agreement with your decision not to extend Part G (Special Programs for Children With Specific Learning Disabilities). The rationale for ending the special program for children with learning disabilities is that Congress has now included such children in the basic definition of "handicapped" and they are eligible for support under the grants to State and local agency provisions. Our general programs which support research and training can also be used to support activities in the area of learning disabilities.

You should be aware, however, that approximately $5 million in child service projects in the learning disability area are now being supported under part G, and some provision should be made for continuing these projects until they are completed or until support for them can be arranged under other authorities.

As a final note, we would like to focus attention on the area of research, innovation, and demonstration relating to the education of the handicapped. We are currently supporting various activities in this area under part C (severely handicapped, early childhood, and adult programs), part E (general research) and part G (learning disabilities). Each of these authorities has special conditions and limitations which apply to projects supported under it. We believe the time has come to consider a more comprehensive approach to the need for research and demonstration in the education of the handicapped, and we are looking toward a consolidation of these current authorities into a more general authority for the support of research and demonstration. Therefore, while supporting the extension of existing authorities in this area for an additional year, we hope the subcommittee will be receptive to any later proposals we may offer to provide such a comprehensive approach for the support of this important work.

Again, let me thank the Subcommittee for its leadership in the area of education of the handicapped.

HARRISON A. WILLIAMS, JR., N.J., CHAIRMAN
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United States Senate
COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

March 22, 1977

The Honorable Joseph A. Califano, Jr.
Secretary
Department of Health, Education
and Welfare
Washington, D. C. 20202

Dear Mr. Secretary:

On March 22, representatives from the Department of Health, Education and Welfare testified before the Subcommittee on the Handicapped concerning S. 725, a bill to extend the discretionary programs authorized by the Education of the Handicapped Act. As you know, the Subcommittee has been conducting extensive hearings on not only S. 725 but also other programs under the Subcommittee's jurisdiction. Your prompt assistance and cooperation in responding to the attached questions for the hearing record would be a valuable contribution to the oversight activities of the Subcommittee.

With best wishes, I am

Truly,

Jennings Randolph

Jennings Randolph
Chairman
Subcommittee on the Handicapped

1. Please provide the subcommittee with the number of handicapped employees employed by the Department.

   What percentage are professional staff?

   What percentage are clerical workers?

   Of the number of handicapped persons employed in a professional capacity, what percentage came through the competitive employment process?

2. The Department of Health, Education and Welfare was in the process of installing four types of furniture for open office areas to be studied for their ability to meet the needs of the physically handicapped in the South Portal Building.

   A. Has this study begun?

   B. Will this study definitely go forward?

   C. When the study is completed do you intend to furnish the remaining open spaces in the building based on the results? Does this mean you will need to seek further authorization for funds for full implementation?

   The subcommittee will expect a full report from the Department of Health, Educationand Welfare on the results of this study.

3. As an author of the Randolph-Sheppard Act of 1936 I have long been concerned that blind citizens be provided business opportunities. Accordingly, please provide the following information:

   A. The number and location of vending facilities in each of the buildings of the Department of Health, Education and Welfare.

   B. The number and location of blind vendors in such buildings.

4. During the Carter campaign, President Carter promised to give opportunities to all minorities, including disabled Americans. What efforts have been and are being made to employ qualified handicapped persons?

5. It is my understanding that the members of the Architectural Barriers and Transportation Barriers Compliance Board have not as yet been appointed. The proper functioning of this Board is vital to the full employment of handicapped persons. Do you expect the Board members to be appointed soon?

6. Have you given consideration to any structural changes in this Board so it functions as a compliance mechanism and not as a protector of agency policy?

7. Several weeks ago a task force was appointed to review for 30 days the implementing regulations for Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap.

A. Do you expect to sign these regulations in the near future? This task force should be concluding its review in the near future. As you know, members of the subcommittee have been very concerned that these regulations be implemented as soon as possible and groups representing disabled individuals have been concerned that the appointment of a task force could mean more delay and change in the regulations.

B. Do you expect to make changes in these regulations and if so, what would be the nature of these changes?

C. Have you involved the Office of Handicapped Individuals and the Architectural and Transportation Barriers Compliance Board in the task force to review these regulations?

8. President Carter submitted a budget amendment to the FY 1978 budget requesting an additional $50 million for grants to States to implement the Education for All Handicapped Children Act, bringing the total amount requested to $365 million in Fiscal Year 1978.

The Committee on Human Resources has made this program one of its top education priorities and has requested that the Budget Committee allow a total of $730 million for full funding of this program so that we might assure all handicapped children aged 3 to 18, their right to an education by September 1, 1978. I intend to work to obtain full funding and would like to have the Administration's support. Would you say that this full funding could be used by the States and used well?

9. The Developmentally Disabled Assistance and Bill of Rights Act of 1974 requires that personal and protection advocacy system be in effect in all States by October 1, 1977. These advocacy systems are designed to protect and insure the rights of persons with developmental disabilities. We understand that many States will not be in compliance with this part of the law by October.

   Will the Administration continue to fund these programs without a protection and advocacy system although they are in violation of the law?

   In relation to this, does the current staffing of the Developmental Disabilities Office and the Office of the General Counsel provide you adequate personnel for the proper review of these advocacy systems?

MAY 3 1977

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

APR 29 1977

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The Handicapped

The Honorable Jennings Randolph
Chairman
Subcommittee on the Handicapped
Human Resources Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter of March 22 requesting our assistance in responding to a series of questions on the Department's activities relating to handicapped individuals.

I asked the appropriate Departmental officials to provide responses to all of your questions which are enclosed.

I hope this information will be useful as the Subcommittee continues its deliberations in this important area.

Sincerely,

Joseph A. Califano Jr.

Joseph A. Califano, Jr.

Enclosures

QUESTIONS SUBMITTED BY SECRETARY CALIFANO TO SENATOR JENNINGS RANDOLPH'S REQUEST FOR INFORMATION ON THE HANDICAPPED

1. Please provide the subcommittee with the number of handicapped employees employed by the Department.

   What percentage are professional staff?

   What percentage are clerical workers?

   Of the number of handicapped persons employed in a professional capacity, what percentage came through the competitive employment process?

RESPONSE:

There are 2212 handicapped employees on the Department's rolls. Percentages are as follows:

-professional	40%
-clerical and paraprofessional	49%
-blue collar	11%

Our computer system provides information on only the most recent personnel action that has occurred. Therefore we cannot provide a firm percentage of handicapped professional employees who entered through the competitive employment process. However, after consultation with the Civil Service Commission's Office of Selective Placement Programs, we are of the opinion that the majority of handicapped professional employees enter through the competitive system. We have 573 handicapped employees in grades 9 through 17, while the Civil Service Commission approved excepted appointments for only 25 severely physically disabled employees in these grades in the Federal government in the period 1964 through 1975.

2. The Department of Health, Education and Welfare was in the process of installing four types of furniture for open office areas to be studied for their ability to meet the needs of the physically handicapped in the South Portal Building.

   A. Has this study begun?

   B. Will this study definitely go forward?

   C. When the study is completed do you intend to furnish the remaining open spaces in the building based on the results. Does this mean you will need to seek further authorization for funds for full implementation?

RESPONSE:

A&B. The General Services Administration (GSA) which controls and manages the South Portal Building was awarded the contract for the study on April 22, and the study itself is to begin on May 2. Every effort will be made to maintain the study on schedule.

C. Four different categories of furniture are being considered in the study. Based upon the results of this study, we have every intention of furnishing the balance of the open space in the building with the successful category of furniture as funds are made available by the Congress. Federal Supply Service has scheduled the first phase of the procurement procedure. This phase contains the method for implementing future procurement to complete the building open space furnishings. Present funds will provide approximately one-third of the open space plan furnishings, and additional funds will be required to complete the installation.

3. As an author of the Randolph-Sheppard Act of 1936 I have long been concerned that blind citizens be provided business opportunities. Accordingly, please provide the following information:

A. The number and location of vending facilities in each of the buildings of the Department of Health, Education and Welfare.

B. The number and location of blind vendors in such buildings.

RESPONSE:

A. Most of the space occupied by the Department of Health, Education, and Welfare staff is in buildings under the control and management of the GSA, and we do not have information on vending facilities in those buildings. This is particularly true in the Southwest Washington, D.C. area where all HEW occupied space is controlled and managed by GSA. However, there is additional space managed and occupied by HEW for special purposes such as hospitals, laboratories, and other health services. In the Washington-Baltimore area, there are 503 vending machines located in 101 special purpose facilities.

B. The general comments in 3A above also apply to this response. As for special purpose space managed and occupied by HEW in the Washington-Baltimore area, there are 15 stands managed by blind persons. The 1976 Annual Report for the Randolph-Sheppard Vending Facility Program reports, nationally, 27 vending stands in HEW special purpose facilities. A copy of that report is attached.

4. During the Carter campaign, President Carter promised to give opportunities to all minorities, including disabled Americans. What efforts have been and are being made to employ qualified handicapped persons?

RESPONSE:

The Department operates under an affirmative action plan for the employment of handicapped individuals, as required by Section 501 of the Rehabilitation Act of 1973 (P.L. 93-112). A network of 56 selective placement coordinators in HEW personnel offices throughout the U.S. works with managers and supervisors to encourage the employment of handicapped people. During the period since enactment of the Rehabilitation Act the Department increased its employment of handicapped individuals by over 50%. However, in terms of the percentage of our employees who are handicapped, we still are not up to the government-wide average. Only 1.4% of our employees are handicapped. The comparable government-wide figure is 2.7%. We intend to intensify our efforts, using every means at our disposal to sustain and accelerate the upward trend.

5. It is my understanding that the members of the Architectural Barriers and Transportation Barriers Compliance Board have not as yet been appointed. The proper functioning of this Board is vital to the full employment of handicapped persons. Do you expect the Board members to be appointed soon?

RESPONSE:

To date, five of nine members of the Architectural and Transportation Barriers Compliance Board have been appointed. Members have been appointed from the Departments of Health, Education, and Welfare, Defense, Labor, and the Veterans Administration. The member from the Postal Service is continuing his appointment. It is anticipated that new members will soon be appointed from the Departments of Housing and Urban Development, Transportation, and Interior as well as the General Services Administration. The A&TBCB will be meeting on May 9, 1977, by which time it is expected that all members will have been designated.

6. Have you given consideration to any structural changes in this Board so it functions as a compliance mechanism and not as a protector of agency policy?

RESPONSE:

At the May 9, 1977 meeting, the institutional problems inherent in the structure of the Board will be discussed. It is anticipated that this discussion will lead to the development of policy options papers, which may include recommendations for legislative or administrative structural changes in the composition of the Board. It should not be assumed that a structure which did not function adequately in previous Administrations will likewise be ineffective in this Administration. This Administration will make every effort to implement the statutory mandate of the Board.

For your information the Architectural and Transportation Barriers Compliance Board has begun to implement its compliance functions. It has already initiated administrative proceedings in one matter and other cases are fast approaching the litigation stage. Under Board rules (copy attached), which were published in the Federal Register December 20, 1976, the role of the Board members is strictly that of an appellate tribunal. In proceedings in which their agency is not a party, a member of the Board may pass a judgment essentially limited to reviewing the record developed before the administrative law judge.

7. Several weeks ago a task force was appointed to review for 30 days the implementing regulations for Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap.

   A. Do you expect to sign these regulations in the near future? This task force should be concluding its review in the near future. As you know, members of the subcommittee have been very concerned that these regulations be implemented as soon as possible and groups representing disabled individuals have been concerned that the appointment of a task force could mean more delay and change in the regulations.

   B. Do you expect to make changes in these regulations and if so, what would be the nature of these changes?

   C. Have you involved the Office of Handicapped Individuals and the Architectural and Transportation Barriers Compliance Board in the task force to review these regulations?

RESPONSE:

A. I signed the final 504 regulation on April 28.

B. Any changes we have made in the 504 regulation are directed toward making the regulations workable, enforceable, and supportable by handicapped persons and the general public.

C. The Office of Handicapped Individuals and the Architectural and Transportation Barriers Compliance Board have been intimately involved in the task force activities reviewing these regulations. Specifically, both organizations have participated in the development of compliance plans for HEW line agencies and have provided counsel to the task force in areas dealing with the relationship of 504 to other handicapped programs and the access provisions now contained in the draft regulation.

8. President Carter submitted a budget amendment to the FY 1978 budget requesting an additional $50 million for grants to States to implement the Education for All Handicapped Children Act, bringing the total amount requested to $365 million in Fiscal Year 1978.

The Committee on Human Resources has made this program one of its top education priorities and has requested that the Budget Committee allow a total of $730 million for full funding of this program so that we might assure all handicapped children aged 3 to 18, their right to an education by September 1, 1978. I intend to work to obtain full funding and would like to have the Administration's support. Would you say that this full funding could be used by the States and used well?

RESPONSE:

In order for the States to spend $730 million in Federal funds, an additional one million children would have to be served by next year, an increase of more than 25 percent over the 3.6 million children now being served. This also assumes that per pupil spending would increase from $1,338 to $1,565, an increase of more than 12 percent using latest data from the National Center for Education Statistics.

While the 25 percent increase in number of children served is consistent with Office of Education estimates there is no question but that its realization is problematic.

The Administration's 1978 budget includes $365 million for this same purpose -- an increase of approximately $120 million over latest estimates of the amount of funds that will actually be allocated in FY 1977. In light of overall budgetary constraints, this represents a significant increase.

9. The Developmentally Disabled Assistance and Bill of Rights Act of 1974 requires that a personal and protection advocacy system be in effect in all States by October 1, 1977. These advocacy systems are designed to protect and insure the rights of persons with developmental disabilities. We understand that many States will not be in compliance with this part of the law by October.

Will the Administration continue to fund these programs without a protection and advocacy system although they are in violation of the law?

In relation to this, does the current staffing of the Developmental Disabilities Office and the Office of the General Counsel provide you adequate personnel for the proper review of these advocacy systems?

RESPONSE:

At the present time, the Governors of 54 States and Territories have designated agencies for the planning and/or implementation of Sec. 113 of P.L. 94-103 - protection of the rights and advocacy for persons with developmental disabilities.

Developmental Disabilities Office (DDO) regional and central office staff have recently completed the second phase of training for State Protection and Advocacy planners in seven regions. Many planners from regions not conducting these second special training sessions attended. Technical assistance was given and questions answered concerning "independence" and "conflict of interest." Experts in legal, administrative, systems, and other types of advocacy made presentations and gave examples of the workings of such advocacy models.

DDO is confident that at least 95% of the States and Territories will be in compliance with Section 113 by October 1, 1977. States which are not in compliance will not receive their Developmental Disabilities formula grant allotments for FY 1978 until the Act's requirements are met. The object will be to persuade and assist the States rather than to estrange or alienate them by non-compliance procedures.

Technical assistance will be given by central and regional office staff, with help from consultants where possible. In relation to back-up personnel, the central office has but one full-time staff member assigned to and responsible for Protection and Advocacy. With the help of other consultants, both at the central and regional office level, DDO will be able to provide the help necessary to assist States in getting their plans approved.

To assist in reviewing and analyzing the States' Protection and Advocacy (P&A) plans, DDO has planned the following action steps:

1. Development of a P&A Plan Checklist, to look for components in the plans which are mandated by law, and to help in systemizing priorities and expand outreach activities of the P&A system.

2. Request OGC to temporarily assign additional staff resources to review legal questions posed in States' plans in response to the requirements of "independence."

3. Temporarily assign central office staff to the P&A Section and train them to assist in rereviewing P&A plans and checklists as they are received from the regional offices.

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM

ANNUAL REPORT

FISCAL YEAR 1976

DISCRIMINATION PROHIBITED--Title VI of the Civil Rights Act of 1964 states: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Therefore, any program or activity supported by grants from the Rehabilitation Services Administration, like every program or activity receiving financial assistance from the Department of Health, Education, and Welfare, must be operated in compliance with this law.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF HUMAN DEVELOPMENT
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, D.C. 20201

INFORMATION MEMORANDUM
RSA-IM-77-41
February 17, 1977

TO : STATE REHABILITATION AGENCIES (GENERAL)
STATE REHABILITATION AGENCIES (BLIND)

SUBJECT : Randolph-Sheppard Vending Facility Program Report for Fiscal Year 1976

CONTENT : Last year extensive changes to the format of this report were made which provided significantly more comparative data with which to analyze your vending facility program. Since this is the second year that this format has been used, the data in this report can therefore be compared with that of FY 1975 to measure accomplishments in specific program areas.

Analysis of the data contained in this report compared with the prior year's report should be of great assistance to State licensing agency personnel in making improvements in the overall management of the program resulting in the provision of more employment opportunities for blind persons.

The most significant achievement in the national program for FY 1976 was the 11.3% increase in the average annual earnings of licensed vendors which reached $9,792. This varies from last year's report in which the highest percentage increase reflected was in gross income. The increase of average vendor earnings is indicative of your improved management and supervision of the program. In spite of a sluggish economy, the FY 1976 gross income of $163.6 million continued to climb at an acceptable rate of 9.6% over the previous year.

The information contained in the attached tables is as follows:

Table A - Contains national statistics comparing the program activities of F.Y. 1975 with F.Y. 1976, showing percentages of increase or decrease.

Table B - A national summary of earnings of the vending facility program by classification of locations, with percentages for each.

Table C - A schedule of earnings of vending facilities by States for all locations, indicating percentages of gross income and net proceeds.

Table D - A schedule of earnings by States of vending facilities on Federal locations, indicating percentages of gross income and net proceeds.

Table E - A schedule of earnings by States of vending facilities on non-Federal locations, with percentages of gross income and net proceeds.

Table F - A schedule of earnings by States of vending facilities on non-Federal public locations, with percentages of gross income and net proceeds.

Table G - A schedule of earnings by States of vending facilities on non-Federal private locations, with percentages of gross income and net proceeds.

Table H - A summary of vending facilities classified by location for each State.

Table I - A schedule of vending facilities on Federal property, set forth according to agencies granting permits.

We are pleased to send you this report and hope that you will find these data useful in future planning and evaluation of your vending facilities program.

Acting Commissioner of Rehabilitation Services

Attachments

TABLE A

National Summary of the Operation of the Randolph-Sheppard Vending Facility Program For FY 1975 and FY 1976

	FY 1975	FY 1976	Percent Increase (Decrease)
Gross Income	$149,219,484	$163,609,731	9.6
Merchandise Purchased and Other Expenses	115,228,845	125,512,411	8.9
Net Proceeds	$ 33,990,639	$ 38,097,320	12.1
Less Funds Set-Aside	4,532,125	5,040,852	11.2
Net Proceeds to Operators	29,458,514	33,056,468	12.2
Amount Paid to Operators As Fair Minimum Return	448,612	258,084	(42.5)
Total Earnings of Operators	$ 29,907,126	$ 33,314,552	11.4
Annual Average Earnings of Operators	$ 8,796	$ 9,792	11.3
Number of Operators	3,810	3,789	(.6)
Federal Locations	1,004	991	(1.3)
Non-Federal Locations	2,806	2,798	(.3)
Number of Vending Facilities	3,364	3,431	2.0
Federal Locations	880	882	.2
Non-Federal Locations	2,484	2,549	2.6

TABLE B

National Summary of the Operation
Of the Randolph-Sheppard Vending Facility Program
By Classification of Locations
FY 1976

				Non Federal Locations					
	Total Program	Federal Locations		Public Locations		Private Locations		Total Non-Federal	
		Amount	Percent[1/]	Amount	Percent[1/]	Amount	Percent[1/]	Amount	Percent[1/]
Gross Income	$163,609,731	$45,780,377	28.0	$84,612,010	51.7	$33,217,344	20.3	$117,829,354	72.0
Merchandise Purchased And Other Expenses	125,512,411	34,912,963	27.8	65,040,449	51.8	25,558,999	20.4	90,599,448	72.2
Net Proceeds	$ 38,097,320	$10,867,414	28.5	$19,571,561	51.4	$ 7,658,345	20.1	$ 27,229,906	71.5
Less Funds Set-Aside	5,040,852	1,786,837	35.4	2,334,032	46.3	919,983	18.3	3,254,015	64.6
Net Proceeds to Operators	$ 33,056,468	$ 9,080,577	27.5	$17,237,529	52.1	$ 6,738,362	20.4	$ 23,975,891	72.5
Amount Paid to Operators As Fair Minimum Return	258,084	104,801	40.6	56,252	21.8	97,031	37.6	153,283	59.4
Total Earnings of Operators	$ 33,314,552	$ 9,185,378	27.6	$17,293,781	51.9	$ 6,835,393	20.5	$ 24,129,174	72.4
Annual Average Earnings of Operators	$9,792	$10,236	104.5	$10,452	106.7	$8,040	82.1	$9,636	98.4
Number of Operators	3,789	991	26.2	1,809	47.7	989	26.1	2,798	73.8
Number of Vending Facilities	3,431	882	25.7	1,646	48.0	903	26.3	2,549	74.3

[1/] Percent of total program column

TABLE C

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(All Locations by States)

State or Territory	Gross Income	Merchandise Purchased and Other Expenses		Net Proceeds		Less Funds Set Aside		
		Amount	Percent[1]	Amount	Percent[1]	Amount	Percent[1]	Percent[2]
TOTALS	$163,609,731	$125,512,411	76.7	$38,097,320	23.3	$5,040,852	3.1	13.2
REGION I	5,129,934	3,936,080	76.7	1,193,854	23.3	33,052	.6	2.8
Conn.	1,101,163	821,537	74.6	279,626	25.4	--	--	--
Maine	358,630	243,660	67.9	114,970	32.1	4,561	1.3	4.0
Mass.	2,468,881	1,948,558	78.9	520,323	21.1	--	--	--
N.H.	506,471	389,768	77.0	116,703	23.0	8,346	1.6	7.2
R.I.	508,687	377,067	74.1	131,620	25.9	15,340	3.0	11.7
Vermont	186,302	155,690	83.6	30,612	16.4	4,805	2.6	15.7
REGION II	10,075,799	8,196,922	81.4	1,878,877	18.6	126,980	1.3	6.8
N.J.	2,829,007	2,181,093	77.1	647,914	22.9	--	--	--
N.Y.	7,231,214	6,003,052	83.0	1,228,162	17.0	125,886	1.7	10.2
Puerto Rico	15,578	12,777	82.0	2,801	18.0	1,094	7.0	39.1
V.I.		NO PROGRAM						
REGION III	31,891,310	24,779,999	77.7	7,111,311	22.3	1,535,690	4.8	21.6
Del.	1,063,662	886,891	83.4	176,771	16.6	22,037	2.1	12.5
D.C.	6,177,376	4,856,948	76.2	1,320,428	23.8	497,382	8.0	37.7
Md.	7,083,603	5,321,583	75.1	1,762,020	24.9	509,066	7.2	28.9
Penn.	10,416,219	8,183,901	78.6	2,232,318	21.4	305,806	2.9	13.7
Va.	5,602,005	4,209,782	75.1	1,392,223	24.9	197,455	3.5	14.2
W. Va.	1,548,445	1,320,894	85.3	227,551	14.7	3,944	.3	1.7
REGION IV	32,955,180	24,516,188	74.4	8,438,992	25.6	952,963	2.9	11.3
Ala.	4,067,519	3,222,803	79.2	844,716	20.8	87,609	2.2	9.9
Fla.	6,079,261	4,277,739	70.4	1,801,522	29.6	244,474	4.0	13.6
Ga.	5,768,817	4,100,129	71.1	1,668,688	28.9	186,488	3.2	11.2
Ky.	3,115,081	2,272,902	73.0	842,179	27.0	81,374	2.6	9.7
Miss.	3,429,717	2,799,112	81.6	630,605	18.4	102,904	3.0	16.3
N.C.	3,342,777	2,494,785	74.6	847,992	25.4	153,881	4.6	18.1
S.C.	2,118,571	1,441,438	68.0	677,133	32.0	--	--	--
Tenn.	5,033,437	3,907,280	77.6	1,126,157	22.4	96,233	1.9	8.5
REGION V	25,035,075	19,111,303	76.3	5,923,772	23.7	702,420	2.8	11.9
Ill.	5,601,416	4,340,208	77.5	1,261,208	22.5	156,629	2.8	12.4
Ind.	1,111,033	918,337	82.7	192,696	17.3	--	--	--
Mich.	4,300,787	3,533,452	82.2	767,335	17.8	86,864	2.0	11.3
Minn.	3,482,567	2,569,895	73.8	912,672	26.2	108,236	3.1	11.9
Ohio	8,921,868	6,584,702	73.8	2,337,166	26.2	318,151	3.6	13.6
Wis.	1,617,404	1,164,709	72.0	452,695	28.0	32,560	2.0	7.2
REGION VI	19,567,404	14,911,246	76.2	4,656,158	23.8	404,209	2.1	8.7
Ark.	3,240,778	2,389,843	73.7	850,935	26.3	135,760	4.2	16.0
La.	4,992,690	3,980,934	79.7	1,011,756	20.3	--	--	--
N.M.	777,775	510,156	65.6	267,619	34.4	12,139	1.6	4.5
Okla.	2,832,806	2,082,656	73.5	750,150	26.5	70,882	2.5	9.4
Texas	7,723,355	5,947,657	77.0	1,775,698	23.0	185,428	2.4	10.4
REGION VII	6,848,759	5,359,193	78.3	1,489,566	21.7	180,576	2.6	12.1
Iowa	1,735,929	1,484,766	85.5	251,163	14.5	--	--	--
Kansas	1,729,405	1,357,186	78.5	372,219	21.5	61,793	3.6	16.6
Mo.	2,893,355	2,199,934	76.0	693,421	24.0	90,356	3.1	13.0
Nebr.	490,070	317,307	64.7	172,763	35.3	28,427	5.8	16.5
REGION VIII	3,993,040	3,017,229	75.6	975,811	24.4	101,025	2.5	10.4
Colo.	2,707,953	2,061,029	76.1	646,924	23.9	71,890	2.7	11.1
Mont.	116,660	92,577	79.4	24,083	20.6	690	.6	2.9
N.D.	57,264	39,985	69.8	17,279	30.2	--	--	--
S.D.	300,151	239,967	79.9	60,184	20.1	5,985	2.0	9.9
Utah	432,044	326,574	75.6	105,470	24.4	11,820	2.7	11.2
Wyo.	378,988	257,117	67.8	121,871	32.2	10,640	2.8	8.7
REGION IX	24,057,080	18,692,938	77.7	5,364,142	22.3	982,950	4.1	18.3
Amer. Samoa		NO PROGRAM						
Ariz.	2,026,760	1,579,632	77.9	447,128	22.1	48,871	2.4	10.9
Calif.	20,120,534	15,631,778	77.7	4,488,756	22.3	916,648	4.6	20.4
Guam	151,114	101,537	67.2	49,577	32.8	1,511	1.0	3.0
Hawaii	870,980	676,993	77.7	193,987	22.3	--	--	--
Nev.	887,692	702,998	79.2	184,694	20.8	15,920	1.8	8.6
Trust Terr.		NO PROGRAM						
REGION X	3,856,150	2,991,311	77.6	864,839	22.4	20,982	.5	3.1
Alaska	31,116	26,218	84.3	4,894	15.7	162	.5	3.3
Idaho	220,270	161,936	73.5	58,334	26.5	--	--	--
Oregon	1,185,295	897,946	75.8	287,369	24.2	20,820	1.8	7.2
Wash.	2,419,469	1,905,213	78.7	514,256	21.3	--	--	--

[1] Percent of gross income.
[2] Percent of net proceeds.

TABLE C (Cont'd)

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(All Locations by States)

Net Proceeds To Operators		Amount Paid to Operators As Fair Minimum Return		Total Earnings of Operators		Number of Operators	Annual Average Earnings of Operators	State or Territory
Amount	Percent[1]	Amount	Percent[1]	Amount	Percent[1]			
$33,056,468	20.3	$ 258,084	.2	$33,314,552	20.4	3,402	$ 9,792	TOTALS
1,160,802	22.6	1,876	--	1,162,678	22.7	130	10,092	REGION I
279,636	25.6	--	--	279,636	25.6	40	9,026	Conn.
110,609	30.8	--	--	110,609	30.8	11	10,080	Maine
520,323	21.1	--	--	520,323	21.1	45	11,988	Mass.
108,357	21.6	--	--	108,357	21.6	12	10,932	N.H.
116,200	22.9	--	--	116,200	22.9	16	7,500	R.I.
25,805	13.9	1,876	1.0	27,681	14.9	6	5,448	Vermont
1,751,897	17.6	--	--	1,751,897	17.6	232	8,556	REGION II
647,914	22.9	--	--	647,914	22.9	59	12,300	N.J.
1,102,276	15.2	--	--	1,102,276	15.2	172	7,296	N.Y.
1,707	11.0	--	--	1,707	11.0	1	1,707	Puerto Rico
		N O P R O G R A M						V.I.
5,775,621	18.0	77,125	.2	5,852,746	18.2	475	12,000	REGION III
156,736	16.3	--	--	156,736	16.3	21	9,186	Del.
1,023,066	16.0	13,116	.2	1,036,182	16.2	75	14,808	D.C.
1,252,952	17.7	48,662	.7	1,301,616	18.6	86	15,196	Md.
1,926,512	18.5	--	--	1,926,512	18.5	183	10,096	Penn.
1,194,772	21.3	12,796	.2	1,207,568	21.6	85	15,317	Va.
223,605	14.4	2,771	.2	226,376	14.6	31	7,308	W. Va.
7,486,029	22.7	133,941	.4	7,619,970	23.1	1,008	8,436	REGION IV
757,107	18.8	18,001	.4	775,108	19.1	135	6,026	Ala.
1,557,044	25.6	12,713	.2	1,569,757	25.8	164	10,920	Fla.
1,482,206	25.7	33,002	.6	1,515,208	26.3	190	8,664	Ga
760,805	26.6	--	--	760,805	26.6	72	10,728	Ky.
527,701	15.6	--	--	527,701	15.6	78	5,986	Miss.
694,111	20.8	70,225	2.1	764,336	22.9	96	7,936	N.C.
677,133	32.0	--	--	677,133	32.0	88	10,260	S.C.
1,029,924	20.5	--	--	1,029,924	20.5	185	7,832	Tenn.
5,221,352	20.9	8,504	--	5,229,856	20.9	573	9,696	REGION V
1,104,579	19.7	8,504	--	1,113,083	19.9	105	10,596	Ill.
192,698	17.3	--	--	192,698	17.3	37	5,496	Ind.
680,691	15.8	--	--	680,691	15.8	120	6,900	Mich.
804,636	23.1	--	--	804,636	23.1	73	11,496	Minn.
2,019,015	22.6	--	--	2,019,015	22.6	200	10,736	Ohio
420,135	26.0	--	--	420,135	26.0	36	12,464	Wisc.
6,251,950	21.7	10,207	.1	6,262,157	21.8	612	8,816	REGION VI
715,175	22.1	5,142	.2	720,317	22.2	98	8,208	Ark.
1,011,736	20.3	--	--	1,011,736	20.3	123	9,732	La.
255,481	32.8	5,065	.7	260,546	33.5	37	9,144	N.M.
679,268	24.0	--	--	679,268	24.0	116	6,128	Okla.
1,590,270	20.8	--	--	1,590,270	20.8	240	9,124	Texas
1,308,990	19.1	14,161	.2	1,323,151	19.3	141	10,272	REGION VII
251,163	16.1	--	--	251,163	16.5	31	9,696	Iowa
310,426	17.9	7,702	.4	318,128	18.4	38	9,636	Kansas
603,065	20.8	6,459	.2	609,524	21.1	58	11,268	Mo.
166,336	29.5	--	--	166,336	29.5	20	9,120	Nebr.
876,780	21.9	2,081	.1	878,861	22.0	123	9,000	REGION VIII
575,034	21.2	1,750	.1	576,784	21.3	53	10,886	Colo.
23,393	20.1	--	--	23,393	20.1	4	6,068	Mont.
17,279	30.2	--	--	17,279	30.2	2	8,640	N.D.
54,201	18.1	--	--	54,201	18.1	12	5,292	S.D.
93,650	21.7	331	.1	93,981	21.8	30	6,192	Utah
111,223	29.3	--	--	111,223	29.3	20	9,672	Wyo.
4,381,192	18.2	1,138	--	4,382,330	18.2	404	11,436	REGION IX
		N O P R O G R A M						Amer. Samoa
398,257	19.6	1,138	.1	399,395	19.7	35	11,72[illegible]	Ariz.
3,572,108	18.6	--	--	3,572,108	18.6	316	11,492	Calif.
48,066	31.8	--	--	48,066	31.8	8	6,012	Guam
193,987	22.3	--	--	193,987	22.3	30	7,100	Hawaii
168,774	19.0	--	--	168,774	19.0	13	12,904	Nev.
		N O P R O G R A M						Trust Terr.
843,855	21.9	9,053	.2	852,908	22.1	87	10,428	REGION X
4,736	15.2	--	--	4,736	15.2	2	3,792	Alaska
58,134	26.5	--	--	58,134	26.5	7	8,323	Idaho
266,529	22.5	9,053	.8	275,582	23.3	38	7,908	Oregon
514,256	21.3	--	--	516,256	21.3	40	13,418	Wash.

TABLE D

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Federal Locations by States)

State or Territory	Gross Income	Merchandise Purchased and Other Expenses		Net Proceeds		Levy Funds Set Aside		
		Amount	Percent [1]	Amount	Percent [1]	Amount	Percent [1]	Percent [2]
TOTALS	$45,780,377	$ 34,912,963	76.3	$ 10,867,414	23.7	$ 1,786,837	3.9	16.4
REGION I	1,425,843	1,077,430	75.6	348,413	24.4	7,617	.5	2.2
Conn.	155,849	117,390	75.3	38,459	24.7	--	--	--
Maine	127,472	82,586	64.8	44,886	35.2	1,780	1.4	4.0
Mass.	917,509	708,487	77.2	208,102	22.7	--	--	--
N.H.	71,957	57,986	80.6	13,971	19.4	1,036	1.4	7.4
R.I.	82,253	55,288	67.2	26,965	32.8	2,443	3.0	9.1
Vermont	70,723	54,715	77.4	16,008	22.6	2,358	3.3	14.7
REGION II	2,825,912	2,384,582	84.4	441,330	15.6	46,007	1.6	10.4
N.J.	515,240	410,529	79.7	104,711	20.3	--	--	--
N.Y.	2,295,094	1,961,276	85.5	333,818	14.5	44,911	2.0	13.5
Puerto Rico	15,578	12,777	82.0	2,801	18.0	1,096	7.0	39.1
V.I.	N O P R O G R A M							
REGION III	16,964,897	12,898,641	76.0	4,066,256	24.0	1,016,352	6.0	24.9
Del.	132,574	111,176	83.9	21,398	16.1	3,561	2.7	16.6
D.C.	6,358,302	4,842,036	76.2	1,516,266	23.8	496,646	7.8	32.8
Md.	4,666,728	3,502,818	75.1	1,163,910	24.9	342,055	7.3	29.4
Penn.	1,928,253	1,509,096	78.3	419,157	21.7	51,062	2.6	12.2
Va.	3,365,664	2,496,160	74.2	869,504	25.8	119,036	3.5	13.7
W. Va.	513,376	437,355	85.2	76,021	14.8	2,012	.4	2.6
REGION IV	6,533,874	4,775,543	73.1	1,758,331	26.9	206,078	3.1	11.7
Ala.	557,086	435,488	78.2	121,598	21.8	14,063	2.5	11.5
Fla.	1,884,857	1,342,106	71.2	542,751	28.8	77,450	4.1	14.3
Ga.	1,184,764	819,371	69.2	365,393	30.8	38,480	3.2	10.5
Ky.	722,936	515,920	71.4	207,016	28.6	19,923	2.8	9.6
Miss.	368,434	286,836	77.9	81,598	22.1	11,053	3.0	13.5
N.C.	437,156	325,021	74.3	112,135	25.7	20,882	4.8	18.6
S.C.	229,054	151,298	66.1	77,756	33.9	--	--	--
Tenn.	1,149,567	899,503	78.2	250,064	21.8	23,047	.2	9.2
REGION V	4,107,046	3,159,928	77.0	942,118	23.0	92,813	2.3	9.9
Ill.	1,013,251	767,786	75.8	245,465	24.2	22,980	2.3	9.4
Ind.	325,632	252,375	77.5	73,257	22.5	--	--	--
Mich.	718,855	607,025	84.4	111,830	15.6	15,801	2.2	14.1
Minn.	723,407	529,804	73.2	193,603	26.8	20,418	2.8	10.5
Ohio	1,072,293	815,400	76.0	256,893	24.0	30,163	2.8	11.7
Wisc.	248,810	187,740	75.5	61,070	24.5	3,651	1.4	5.7
REGION VI	4,010,140	3,055,168	76.2	954,972	23.8	78,349	2.0	8.2
Ark.	358,292	240,558	67.1	117,734	32.9	17,537	4.9	14.9
La.	850,090	700,670	82.4	149,420	17.6	--	--	--
N.M.	424,746	287,210	67.6	137,536	32.4	6,404	1.5	4.7
Okla.	716,385	507,680	71.0	208,705	29.0	17,893	2.5	8.6
Texas	1,662,417	1,319,050	79.3	343,367	20.7	36,515	2.2	10.6
REGION VII	2,008,416	1,462,922	72.9	545,494	27.1	70,668	3.5	13.0
Iowa	435,936	344,330	79.0	91,606	21.0	--	--	--
Kansas	141,189	111,487	79.0	29,702	21.0	770	.5	2.6
Mo.	1,221,951	876,422	71.7	345,529	28.3	57,745	4.7	16.7
Nebr.	209,340	130,683	62.4	78,657	37.6	12,153	5.8	15.5
REGION VIII	1,456,111	1,099,904	75.5	356,206	24.5	35,857	2.4	9.8
Colo.	807,869	586,830	72.6	221,039	27.4	23,042	2.9	10.4
Mont.	105,165	84,766	80.6	20,399	19.4	600	.6	2.9
N.D.	57,264	39,885	69.7	17,379	30.3	--	--	--
S.D.	197,570	167,112	84.6	30,458	15.4	3,651	1.9	12.0
Utah	213,036	165,316	77.6	47,720	22.4	5,737	2.7	12.0
Wyo.	74,773	55,462	74.2	19,311	25.8	1,825	2.4	9.5
REGION IX	5,422,404	4,223,376	77.9	1,199,028	22.1	232,669	4.3	19.4
Amer. Samoa	N O P R O G R A M							
Ariz.	381,750	291,394	76.3	90,356	23.7	8,212	2.2	9.1
Calif.	4,258,342	3,311,785	77.8	946,557	22.2	209,823	4.9	22.2
Guam	--	--	--	--	--	--	--	--
Hawaii	92,148	69,276	75.2	22,872	24.8	--	--	--
Nev.	690,164	550,921	79.8	139,243	20.2	14,634	2.1	10.5
Trust Terr.	N O P R O G R A M							
REGION X	1,034,726	775,462	74.9	259,264	25.1	4,829	.5	1.9
Alaska	31,116	26,218	84.3	4,898	15.7	162	.5	3.3
Idaho	66,568	48,100	72.3	18,468	27.7	--	--	--
Oregon	252,277	167,572	66.4	84,705	33.6	4,667	1.8	5.5
Wash.	684,765	533,572	77.9	151,193	22.1	--	--	--

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[1] Percent of gross income
[2] Percent of net proceeds

TABLE D (Cont'd)

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Federal Locations by States)

Net Proceeds To Operators		Amount Paid to Operators as Fair Minimum Return		Total Earnings of Operators		Number of Operators	Annual Average Earnings[2] of Operators	State or Territory
Amount	Percent [1]	Amount	Percent [1]	Amount	Percent [1]			
$ 9,080,577	19.8	$ 104,801	2.1	$9,185,378	20.1	991	$ 10,236	TOTALS
340,796	21.9	50	--	340,846	21.9	37	9,420	REGION I
38,459	24.7	--	--	38,459	24.7	6	6,408	Conn.
43,108	33.8	--	--	43,108	33.8	4	10,776	Maine
208,102	22.7	--	--	208,102	22.7	18	11,556	Mass.
12,935	18.0	--	--	12,935	18.0	2	6,468	N.H.
24,542	29.8	--	--	24,542	29.8	4	6,264	R.I.
13,650	19.3	50	.3	13,700	19.4	3	6,284	Vermont
395,325	16.0	--	--	395,325	16.0	55	8,028	REGION II
104,711	20.3	--	--	104,711	20.3	13	9,312	N.J.
288,907	12.6	--	--	288,907	12.6	41	7,812	N.Y.
1,707	11.0	--	--	1,707	11.0	1	1,707	Puerto Rico
		NO PROGRAM						V.I.
3,051,904	18.0	42,247	.2	3,094,151	18.2	213	15,000	REGION III
17,837	13.5	--	--	17,837	13.5	3	5,484	Del.
1,019,820	16.0	12,358	.2	1,032,178	18.2	74	14,988	D.C.
821,855	17.6	21,647	.5	843,502	18.1	50	16,880	Md.
368,115	19.1	--	--	368,115	19.1	23	17,328	Penn.
750,468	22.3	7,575	.2	758,043	22.5	51	15,108	Va.
74,009	14.4	667	.1	74,676	14.5	12	6,204	W. Va.
1,553,453	21.8	49,411	.8	1,602,864	24.5	209	8,748	REGION IV
107,555	19.3	2,462	.4	110,017	19.7	19	6,168	Ala.
465,301	24.7	6,628	.4	471,929	25.0	51	10,848	Fla.
326,913	27.6	14,279	1.2	341,192	28.8	40	8,640	Ga.
187,093	25.9	--	--	187,093	25.9	13	14,388	Ky.
70,565	19.1	--	--	70,565	19.1	17	4,212	Miss.
91,253	20.9	26,042	6.0	117,295	26.8	15	7,824	N.C.
77,756	33.9	--	--	77,756	33.9	13	8,640	S.C.
227,037	19.7	--	--	227,037	19.7	43	7,920	Tenn.
849,305	20.7	3,614	.3	852,919	20.8	125	7,236	REGION V
222,485	21.0	3,614	.4	226,099	22.3	27	8,376	Ill.
73,257	22.5	--	--	73,257	22.5	15	5,028	Ind.
96,029	13.4	--	--	96,029	13.4	27	4,704	Mich.
173,185	23.9	--	--	173,185	23.9	22	7,872	Minn.
226,730	21.1	--	--	226,730	21.1	27	8,400	Ohio
57,619	23.2	--	--	57,619	23.2	7	8,328	Wisc.
876,623	22.9	3,488	.1	880,111	22.8	144	7,452	REGION VI
100,197	28.0	70	--	100,267	28.0	10	10,284	Ark.
149,420	17.8	--	--	149,420	17.8	30	7,140	La.
131,132	30.9	3,818	.9	134,950	31.8	20	8,136	N.M.
189,022	26.5	--	--	189,022	26.5	33	5,952	Okla.
306,852	18.5	--	--	306,852	18.5	49	7,812	Texas
472,826	23.7	5,482	.3	478,308	23.8	55	9,504	REGION VII
91,606	21.0	--	--	91,606	21.0	12	8,328	Iowa
28,932	20.1	420	.3	29,352	20.8	8	6,408	Kansas
285,784	23.6	5,062	.4	290,866	23.8	30	10,392	Mo.
66,504	31.8	--	--	66,504	31.8	7	9,852	Nebr.
321,349	22.1	86	--	321,435	22.1	45	9,144	REGION VIII
197,997	24.5	--	--	197,997	24.5	14	14,148	Colo.
19,799	18.8	--	--	19,799	18.8	5	3,960	Mont.
17,279	30.2	--	--	17,279	30.2	2	8,640	N.D.
26,805	13.5	--	--	26,805	13.5	6	5,384	S.D.
41,983	19.7	86	--	42,069	19.7	13	6,628	Utah
17,486	23.4	--	--	17,486	23.4	5	3,832	Wyo.
964,161	17.8	23	--	964,184	17.8	81	12,744	REGION IX
		NO PROGRAM						Amer. Samoa
82,162	21.5	23	--	82,185	21.5	6	13,692	Ariz.
734,934	17.3	--	--	734,934	17.3	61	12,048	Calif.
--	--	--	--	--	--	--	--	Guam
22,872	24.8	--	--	22,872	24.8	3	5,184	Hawaii
124,613	18.1	--	--	124,613	18.1	9	14,664	Nev.
		NO PROGRAM						Trust Terr.
254,435	24.6	--	--	254,435	24.6	27	9,572	REGION X
4,736	24.9	--	--	4,736	15.2	2	3,792	Alaska
18,468	27.7	--	--	18,468	27.7	3	6,156	Idaho
80,038	31.7	--	--	80,038	31.7	10	8,808	Oregon
151,193	22.1	--	--	151,193	22.1	12	12,180	Wash.

TABLE B

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non-Federal Locations by States)

State or Territory	Gross Income	Merchandise Purchased and Other Expenses		Net Proceeds		Less Funds Set Aside		
		Amount	Percent[1]	Amount	Percent[1]	Amount	Percent[1]	Percent[2]
TOTALS	$117,829,354	$90,599,448	76.9	$27,229,906	23.1	$ 3,256,015	2.8	12.0
REGION I	3,704,091	2,858,650	77.2	845,441	22.8	25,435	.7	3.0
Conn.	945,314	704,147	74.5	241,167	25.5	--	--	--
Maine	230,958	160,876	69.7	70,082	30.3	2,781	1.2	4.0
Mass.	1,551,292	1,239,071	79.9	312,221	20.1	--	--	--
N.H.	434,514	331,782	76.4	102,732	23.6	7,310	1.7	7.1
R.I.	426,434	321,799	75.5	104,635	24.5	12,897	3.0	12.3
Vermont	115,579	100,973	87.4	14,606	12.6	2,447	2.1	16.8
REGION II	7,249,887	5,812,340	80.2	1,437,547	19.8	80,975	1.1	5.6
N.J.	2,313,767	1,770,564	76.5	543,203	23.5	--	--	--
N.Y.	4,936,120	4,041,776	81.9	894,344	18.1	80,975	1.6	9.1
Puerto Rico	--	--	--	--	--	--	--	--
V.I.		NO PROGRAM						
REGION III	15,126,413	11,881,358	78.5	3,245,055	21.5	521,338	3.4	16.1
Del.	931,088	775,715	83.3	155,373	16.7	18,476	2.0	11.9
D.C.	19,074	14,912	78.2	4,162	21.8	738	3.9	17.7
Md.	2,416,875	1,818,765	75.3	598,110	24.7	167,013	6.9	27.9
Penn.	8,487,566	6,674,405	78.6	1,813,161	21.4	254,764	3.0	14.1
Va.	2,236,341	1,713,622	76.6	522,719	23.4	78,413	3.5	15.0
W. Va.	1,035,069	883,539	85.4	151,530	14.6	1,934	.2	1.3
REGION IV	26,421,306	19,740,645	74.7	6,680,661	25.3	748,085	2.8	11.2
Ala.	3,510,433	2,787,315	79.4	723,118	20.6	73,566	2.1	10.2
Fla.	4,194,404	2,935,633	70.0	1,258,771	30.0	167,028	4.0	13.3
Ga.	4,584,053	3,280,758	71.6	1,303,295	28.4	148,004	3.2	11.4
Ky.	2,392,145	1,756,982	73.4	635,163	26.6	61,451	2.6	9.7
Miss.	3,061,283	2,512,276	82.1	549,007	17.9	91,851	3.0	16.7
N.C.	2,905,621	2,169,764	74.7	735,857	25.3	132,999	4.6	18.1
S.C.	1,889,517	1,290,140	68.3	599,377	31.7	--	--	--
Tenn.	3,883,850	3,007,777	77.4	876,073	22.6	73,188	1.9	8.4
REGION V	20,933,029	15,951,375	76.2	4,981,654	23.8	609,607	2.9	12.2
Ill.	4,588,165	3,572,422	77.9	1,015,743	22.1	133,649	2.9	13.2
Ind.	785,401	665,962	84.8	119,439	15.2	--	--	--
Mich.	3,582,134	2,926,629	81.7	655,505	81.7	71,043	2.0	10.8
Minn.	2,759,160	2,040,091	73.9	719,069	26.1	87,818	3.2	12.2
Ohio	7,849,575	5,769,302	73.5	2,080,273	26.5	287,988	3.7	13.8
Wisc.	1,368,594	976,969	71.4	391,625	28.6	29,109	2.1	7.4
REGION VI	15,557,264	11,856,078	76.2	3,701,186	23.8	325,859	2.1	8.8
Ark.	2,882,486	2,149,285	74.6	733,201	25.4	118,223	4.1	16.1
La.	4,142,600	3,280,264	79.2	862,336	20.8	--	--	--
N.M.	353,029	222,946	63.2	130,083	36.8	5,734	1.6	4.4
Okla.	2,118,211	1,574,976	74.4	543,235	25.6	52,989	2.5	9.8
Texas	6,060,938	4,628,607	76.4	1,432,331	23.6	148,913	2.5	10.4
REGION VII	4,842,343	3,896,271	80.5	946,072	19.5	109,908	2.3	11.6
Iowa	1,299,993	1,140,436	87.7	159,557	12.3	--	--	--
Kansas	1,588,216	1,245,699	78.4	342,517	21.6	61,023	3.8	17.8
Mo.	1,673,404	1,323,512	79.1	349,892	20.9	32,611	1.9	9.3
Nebr.	280,730	186,626	66.5	94,104	33.5	16,274	5.8	17.3
REGION VIII	2,536,925	1,917,320	75.6	619,605	24.4	66,174	2.6	10.7
Colo.	1,900,085	1,474,200	77.6	425,885	22.4	48,848	2.6	11.5
Mont.	11,515	7,831	68.0	3,684	32.0	90	.8	2.4
N.D.	--	--	--	--	--	--	--	--
S.D.	102,121	72,395	70.9	29,726	29.1	2,330	2.3	7.8
Utah	218,989	161,239	73.6	57,750	26.4	6,083	2.8	10.5
Wyo.	304,215	201,655	66.3	102,560	33.7	8,823	2.9	8.6
REGION IX	18,636,672	14,469,560	77.6	4,167,112	22.4	750,491	4.0	18.0
Amer. Samoa		NO PROGRAM						
Ariz.	1,643,010	1,284,236	78.3	358,774	21.7	40,659	2.5	11.3
Calif.	15,864,192	12,319,993	77.7	3,544,199	22.3	707,025	4.5	19.9
Guam	151,114	101,537	67.2	49,577	32.8	1,511	1.0	3.0
Hawaii	778,832	607,717	--	171,115	--	--	--	--
Nev.	197,544	152,077	77.0	45,467	23.0	1,296	.7	2.8
Trust Terr.		NO PROGRAM						
REGION X	2,921,624	2,315,851	79.3	605,773	21.3	16,153	.6	2.7
Alaska	--	--	--	--	--	--	--	--
Idaho	153,702	113,838	76.1	39,864	25.9	--	--	--
Oregon	933,018	730,374	78.3	202,644	21.7	16,153	1.7	7.8
Wash.	1,734,704	1,371,641	79.1	363,063	20.9	--	--	--

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[1] Percent of gross income
[2] Percent of net proceeds

TABLE E (Cont'd)

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non-Federal Locations by States)

Net Proceeds to Operators		Amount Paid to Operators As Fair Minimum Return		Total Earnings of Operators		Number of Operators	Annual Average Earnings of Operators	State or Territory
Amount	Percent 1/	Amount	Percent 1/	Amount	Percent 1/			
$ 23,975,893	20.5	$ 153,283	.1	$24,129,176	20.7	1798	$ 9,636	TOTALS
820,008	22.1	1,826	.1	821,834	22.1	93	12,792	REGION I
241,167	25.5	--	--	241,167	25.5	26	9,548	Conn.
67,301	29.1	--	--	67,301	29.1	7	12,613	Maine
312,221	20.1	--	--	312,221	20.1	27	12,288	Mass.
95,622	22.0	--	--	95,622	22.0	10	12,068	N.H.
91,738	21.5	--	--	91,738	21.5	12	7,920	R.I.
12,157	10.5	1,826	1.6	13,983	12.1	3	4,932	Vermont
1,336,572	18.7	--	--	1,336,572	18.7	173	8,716	REGION II
563,203	23.5	--	--	563,203	23.5	46	11,018	N.J.
813,369	16.5	--	--	813,369	16.5	114	7,119	N.Y.
--	--	--	--	--	--	--	--	Puerto Rico
		N O P R O G R A M						V.I.
2,719,711	18.0	36,878	.2	2,718,141	18.2	382	11,547	REGION III
136,897	16.7	--	--	136,897	16.7	14	9,880	Del.
5,426	18.8	558	1.9	5,984	20.9	5	1,196	D.C.
411,097	17.8	26,815	1.1	437,912	18.9	30	14,612	Md.
1,558,397	18.4	--	--	1,558,397	18.4	160	10,620	Penn.
444,304	19.9	1,201	.1	449,505	20.3	34	13,096	Va.
169,596	16.1	2,304	.2	171,900	16.7	19	7,462	W. Va.
5,932,176	22.5	84,130	.3	6,017,306	22.8	799	8,111	REGION IV
649,552	18.5	17,139	.4	667,091	18.9	118	6,360	Ala.
1,091,763	26.0	6,085	.1	1,097,818	26.2	113	11,938	Fla.
1,157,293	25.2	18,723	.4	1,176,016	25.9	130	8,862	Ga.
573,712	24.0	--	--	573,712	24.0	59	9,900	Ky.
457,136	14.9	--	--	457,136	14.9	81	6,171	Miss.
602,858	20.7	44,183	1.5	647,041	22.3	91	7,092	N.C.
599,177	31.7	--	--	599,177	31.7	77	10,512	S.C.
802,667	20.7	--	--	802,667	20.7	141	7,549	Tenn.
4,372,067	20.9	4,890	--	4,376,957	20.9	448	10,187	REGION V
882,394	19.2	4,890	.1	888,384	19.3	79	11,226	Ill.
119,439	15.2	--	--	119,439	15.2	22	5,812	Ind.
584,462	16.3	--	--	584,462	16.3	92	7,636	Mich.
631,251	22.9	--	--	631,251	22.9	51	13,772	Minn.
1,792,289	22.8	--	--	1,792,289	22.8	175	10,526	Ohio
363,116	26.5	--	--	363,116	26.5	31	13,772	Wisc.
3,375,327	21.7	6,319	--	3,381,646	21.7	469	8,976	REGION VI
614,978	21.4	5,072	.2	620,050	21.5	88	7,944	Ark.
862,136	20.8	--	--	862,136	20.8	83	10,292	La.
124,349	35.2	1,247	.4	125,596	35.6	17	10,536	N.M.
490,266	23.1	--	--	490,266	23.1	79	6,780	Okla.
1,283,618	21.2	--	--	1,283,618	21.2	191	9,768	Texas
836,166	17.3	8,679	.2	844,845	17.4	90	10,384	REGION VII
139,517	12.3	--	--	139,517	12.3	19	11,692	Iowa
281,496	17.7	7,282	.5	288,776	18.2	31	10,384	Kansas
317,281	19.0	1,397	.1	318,678	19.0	28	13,218	Mo.
77,832	27.7	--	--	77,832	27.7	13	8,768	Nebr.
553,432	21.8	1,994	.1	555,426	21.9	78	6,892	REGION VIII
377,037	19.8	1,750	.1	378,787	19.9	29	9,708	Colo.
5,596	31.2	--	--	5,596	31.2	1	4,788	Mont.
--	--	--	--	--	--	--	--	N.D.
27,396	26.8	--	--	27,396	26.8	6	5,220	S.D.
51,667	23.6	245	.1	51,912	23.7	17	5,772	Utah
92,737	30.8	--	--	92,737	30.8	11	11,028	Wyo.
3,416,631	18.1	1,117	--	3,417,748	18.1	323	11,117	REGION IX
		N O P R O G R A M						Amer. Samoa
316,113	19.2	1,117	.1	317,230	19.3	28	11,281	Ariz.
2,837,176	17.9	--	--	2,837,176	17.9	255	11,846	Calif.
48,066	31.8	--	--	48,066	31.8	8	8,011	Guam
171,113	--	--	--	171,113	--	25	7,132	Hawaii
44,181	22.4	--	--	44,181	22.4	6	8,832	Nev.
		N O P R O G R A M						Trust Terr.
569,420	20.9	9,053	.3	578,473	21.2	60	10,751	REGION X
--	--	--	--	--	--	--	--	Alaska
19,866	25.8	--	--	19,866	25.8	6	3,311	Idaho
188,491	32.0	9,053	1.5	197,544	33.5	29	7,298	Oregon
361,063	20.9	--	--	361,063	20.9	24	14,004	Wash.

TABLE F

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non-Federal Public Locations by States)

State or Territory	Gross Income	Merchandise Purchased and Other Expenses		Net Proceeds		Less Funds Set Aside		
		Amount	Percent 1	Amount	Percent 1	Amount	Percent 1	Percent 2
TOTALS	$84,612,010	$ 65,040,449	76.9	$19,571,561	23.1	$ 2,334,032	2.8	11.9
REGION I	3,058,031	2,357,057	77.1	700,974	22.9	22,277	.7	3.2
Conn.	771,536	568,263	73.7	203,273	26.3	--	--	--
Maine	230,958	160,876	69.7	70,082	30.3	2,781	1.2	4.0
Mass.	1,210,177	989,700	81.8	220,477	18.2	--	--	--
N.H.	434,514	331,782	76.4	102,732	23.6	7,310	1.7	6.1
R.I.	295,267	205,461	69.6	89,806	30.4	9,739	3.3	10.8
Vermont	115,579	100,975	87.4	14,604	12.6	2,447	2.1	16.8
REGION II	6,192,276	4,967,658	80.2	1,224,618	19.8	75,976	1.2	6.2
N.J.	1,946,544	1,498,816	77.0	447,728	23.0	--	--	--
N.Y.	4,245,732	3,468,842	81.7	776,890	18.3	75,976	1.8	9.8
Puerto Rico	--	--	--	--	--	--	--	--
V.I.		N O P R O G R A M						
REGION III	9,119,356	7,455,170	78.3	2,064,586	21.7	351,752	3.7	17.0
Del.	280,642	230,995	82.3	49,647	17.7	3,997	1.4	8.1
D.C.	--	--	--	--	--	--	--	--
Md.	1,642,759	1,225,322	74.6	417,436	25.4	117,405	7.1	28.1
Penn.	5,274,532	4,191,255	79.5	1,083,277	20.5	166,868	3.2	15.4
Va.	1,640,523	1,252,237	76.3	388,286	23.7	62,148	3.8	16.0
W. Va.	681,301	555,361	81.5	125,940	18.5	1,334	.2	1.1
REGION IV	16,643,858	12,262,667	73.7	4,381,191	26.3	481,952	2.9	11.0
Ala.	2,350,189	1,846,842	78.6	503,347	21.4	48,520	2.1	9.6
Fla.	3,452,719	2,419,486	70.1	1,033,233	29.9	139,921	4.1	13.5
Ga.	3,031,332	2,110,467	69.6	920,865	30.4	103,369	3.4	11.2
Ky.	1,242,917	883,327	71.1	359,590	28.9	32,197	2.6	9.0
Miss.	1,639,232	1,351,475	82.4	287,757	17.5	49,189	3.0	17.1
N.C.	1,277,861	905,983	70.9	371,878	29.1	59,642	4.7	16.0
S.C.	1,062,268	723,776	68.1	338,492	31.9	--	--	--
Tenn.	2,587,358	2,021,329	78.1	566,029	21.9	49,114	1.9	8.7
REGION V	15,620,819	11,992,640	76.8	3,628,179	23.2	401,815	2.6	11.1
Ill.	2,840,445	2,192,271	77.2	648,174	22.8	84,005	3.0	13.0
Ind.	760,364	649,861	85.5	110,503	14.5	--	--	--
Mich.	3,287,625	2,689,536	81.8	598,089	18.2	64,922	2.0	10.9
Minn.	2,357,720	1,735,418	73.6	622,302	26.4	77,419	3.3	12.4
Ohio	5,192,999	3,893,631	75.0	1,299,368	25.0	151,349	2.9	11.6
Wisc.	1,181,866	832,123	70.4	349,743	29.6	24,120	2.0	6.9
REGION VI	8,956,189	6,779,444	75.7	2,176,745	24.3	163,923	1.8	7.5
Ark.	1,085,695	749,140	69.0	336,555	31.0	59,778	5.5	17.8
La.	3,406,197	2,677,561	78.6	728,636	21.4	--	--	--
N.M.	294,379	189,177	64.3	105,202	35.7	4,387	1.5	4.2
Okla.	1,637,619	1,190,576	72.7	447,043	27.3	40,941	2.5	9.2
Texas	2,530,299	1,973,010	78.0	557,289	22.0	58,817	2.3	10.6
REGION VII	2,738,797	2,194,096	80.1	544,701	19.9	51,239	1.9	9.4
Iowa	1,093,600	952,081	87.1	141,519	12.9	--	--	--
Kansas	558,443	436,711	78.1	121,732	21.9	17,027	3.1	14.0
Mo.	853,706	647,720	75.9	205,986	24.1	20,599	2.4	10.0
Nebr.	235,048	159,584	67.9	75,464	32.1	13,613	5.8	18.0
REGION VIII	1,875,451	1,409,549	75.2	465,902	24.8	49,470	2.6	10.6
Colo.	1,490,053	1,146,211	76.9	343,842	23.1	37,910	2.5	11.0
Mont.	--	--	--	--	--	--	--	--
N.D.	--	--	--	--	--	--	--	--
S.D.	33,447	20,769	62.1	12,678	37.9	1,276	3.8	10.1
Utah	189,321	139,652	73.8	49,669	26.2	5,268	2.8	10.6
Wyo.	162,630	102,917	63.3	59,713	36.7	5,036	3.1	8.4
REGION IX	17,415,137	13,573,269	77.9	3,841,868	22.1	721,088	4.2	18.8
Amer. Samoa		N O P R O G R A M						
Ariz.	1,588,738	1,245,465	78.4	343,273	21.6	40,088	2.5	11.7
Calif.	14,800,489	11,545,312	78.0	3,255,177	22.0	680,205	4.6	20.9
Guam	151,114	101,537	67.2	49,577	32.8	1,511	1.0	3.0
Hawaii	679,272	530,878	78.2	148,394	21.8	--	--	--
Nev.	195,524	152,077	77.0	45,447	23.0	1,284	.7	2.8
Trust Terr.		N O P R O G R A M						
REGION X	[illegible]	2,048,801	79.0	544,797	21.0	12,560	.5	2.3
Alaska	--	--	--	--	--	--	--	--
Idaho	153,702	115,836	75.1	38,866	25.3	--	--	--
Oregon	705,292	563,424	79.9	141,868	20.1	12,560	1.8	8.8
Wash.	1,734,704	1,371,441	79.1	363,263	20.9	--	--	--

1 Percent of gross income
2 Percent of net proceeds

TABLE F (Cont'd)

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non-Federal Public Locations by States)

Net Proceeds to Operators		Amount Paid to Operators as Fair Minimum Return		Total Earnings of Operators		Number of Operators	Annual Average Earnings of Operators	State or Territory
Amount	Percent 1/	Amount	Percent 1/	Amount	Percent 1/			
$ 17,237,129	20.3	$ 56,252	.1	$ 17,293,381	20.4	1809	$ 10,452	TOTALS
678,497	22.2	1,824	.1	680,321	22.3	74	10,788	REGION I
203,273	26.3	--	--	203,273	26.3	27	10,164	Conn.
87,301	29.1	--	--	87,301	29.1	7	10,632	Maine
129,437	18.2	--	--	129,437	18.7	18	12,720	Mass.
95,422	22.0	--	--	95,422	22.0	10	12,048	N.H.
80,067	27.1	--	--	80,067	27.1	9	9,240	R.I.
12,157	10.5	1,824	1.6	13,981	12.1	3	4,932	Vermont
1,148,642	18.5	--	--	1,148,642	18.5	142	9,072	REGION II
447,728	23.0	--	--	447,728	23.0	36	12,376	N.J.
700,914	16.5	--	--	700,914	16.5	106	7,612	N.Y.
--	--	--	--	--	--	--	--	Puerto Rico
		NO PROGRAM						V.I.
1,712,834	18.0	5,890	.1	1,718,724	18.1	140	12,960	REGION III
43,650	16.3	--	--	43,650	16.3	5	10,936	Del.
--	--	--	--	--	--	--	--	D.C.
300,051	18.3	2,231	.1	302,282	18.4	19	18,644	Md.
916,409	17.4	--	--	916,409	17.4	78	11,928	Penn.
326,138	19.9	3,311	.2	329,449	20.1	23	17,908	Va.
124,806	18.3	128	--	124,934	18.3	15	8,328	W. Va.
1,899,239	23.4	31,316	.3	1,930,555	23.6	468	9,216	REGION IV
456,827	19.6	9,910	.4	466,737	19.8	73	6,626	Ala.
893,312	25.9	4,312	.1	897,624	26.0	89	10,908	Fla.
817,496	27.0	7,519	.2	825,015	27.3	81	10,117	Ga.
327,393	26.3	--	--	327,393	26.3	29	11,292	Ky.
238,368	14.8	--	--	238,368	14.8	30	7,116	Miss.
312,236	20.6	9,575	.6	321,811	21.2	34	9,468	N.C.
338,492	31.9	--	--	338,492	31.9	35	13,020	S.C.
518,915	20.8	--	--	518,915	20.8	98	7,069	Tenn.
3,226,364	20.7	1,907	--	3,228,271	20.7	300	11,168	REGION V
366,169	19.8	1,907	.1	368,076	19.9	61	13,812	Ill.
110,503	14.5	--	--	110,503	14.5	20	5,192	Ind.
337,167	16.2	--	--	337,167	16.2	73	6,178	Mich.
366,883	23.1	--	--	366,883	23.1	19	14,796	Minn.
1,168,019	22.1	--	--	1,168,019	22.1	101	11,116	Ohio
321,623	27.8	--	--	321,623	27.8	26	14,216	Wisc.
2,010,422	22.3	3,096	--	2,013,518	22.5	265	9,576	REGION VI
276,777	23.5	1,849	.2	278,626	23.7	55	8,566	Ark.
728,636	21.6	--	--	728,636	21.6	76	10,836	La.
100,815	36.2	1,247	.4	102,062	36.6	18	9,369	N.M.
408,102	26.8	--	--	408,102	26.8	61	7,112	Okla.
498,672	19.7	--	--	498,672	19.7	57	11,664	Texas
693,462	18.0	2,811	.1	696,273	18.1	63	12,638	REGION VII
161,119	12.9	--	--	161,119	12.9	13	11,796	Iowa
104,707	19.0	2,811	.3	107,518	19.3	12	9,117	Kansas
181,387	21.7	--	--	181,387	21.7	10	20,606	Mo.
61,852	28.3	--	--	61,852	28.3	10	6,736	Nebr.
616,432	22.2	1,245	.1	617,677	22.3	58	8,892	REGION VIII
301,912	20.5	1,000	.1	302,912	20.6	33	9,300	Colo.
--	--	--	--	--	--	--	--	Mont.
--	--	--	--	--	--	--	--	N.D.
11,402	34.1	--	--	11,402	34.1	2	5,700	S.D.
44,321	23.5	245	.1	44,566	23.6	18	5,180	Utah
16,677	33.8	--	--	16,677	33.8	7	11,668	Wyo.
3,318,780	17.9	587	--	3,319,367	17.9	287	11,328	REGION IX
		NO PROGRAM						Amer. Samoa
303,187	19.1	587	--	303,774	19.1	26	11,760	Ariz.
2,174,972	17.6	--	--	2,174,972	17.6	224	11,916	Calif.
48,066	31.8	--	--	48,066	31.8	8	6,012	Guam
148,396	21.8	--	--	148,396	21.8	27	7,212	Hawaii
44,181	22.4	--	--	44,181	22.4	6	8,812	Nev.
		NO PROGRAM						Trust Terr.
532,257	20.5	7,798	.3	540,053	20.8	52	10,944	REGION X
--	--	--	--	--	--	--	--	Alaska
38,866	21.9	--	--	38,866	21.9	4	9,672	Idaho
179,328	18.3	7,798	1.1	187,126	19.6	20	7,068	Oregon
361,063	20.9	--	--	361,063	20.9	28	14,304	Wash.

TABLE 4

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non-Federal Private Locations by States)

State or Territory	Gross Income	Merchandise Purchased and Other Expenses		Net Proceeds		Less Funds Set Aside		
		Amount	Percent [1]	Amount	Percent [1]	Amount	Percent [1]	Percent [2]
TOTALS	$33,217,344	$25,558,999	76.9	$ 7,658,345	23.1	$ 919,983	2.8	12.0
REGION I	666,060	521,593	77.6	144,467	22.4	3,158	.5	2.2
Conn.	173,778	135,884	78.2	37,896	21.8	--	--	--
Maine	--	--	--	--	--	--	--	--
Mass.	361,115	269,371	75.1	91,766	26.9	--	--	--
N.H.	--	--	--	--	--	--	--	--
R.I.	131,167	116,338	88.7	14,829	11.3	3,158	2.4	21.3
Vermont	--	--	--	--	--	--	--	--
REGION II	1,057,611	844,682	79.9	212,929	20.1	4,999	.5	2.3
N.J.	367,223	271,748	74.0	95,475	26.0	--	--	--
N.Y.	690,388	572,934	83.0	117,454	17.0	4,999	.7	4.3
Puerto Rico	--	--	--	--	--	--	--	--
V.I.		N O P R O G R A M						
REGION III	5,606,657	4,426,188	78.9	1,180,469	21.1	169,586	3.0	14.4
Del.	650,446	544,720	83.7	105,726	16.3	14,479	2.2	13.7
D.C.	19,074	14,912	78.2	4,162	21.8	736	3.9	17.7
Md.	774,117	593,443	76.7	180,674	23.3	49,608	6.4	27.5
Penn.	3,213,434	2,483,550	77.3	729,884	22.7	87,896	2.7	12.0
Va.	595,818	461,385	77.4	134,433	22.6	16,267	2.7	12.1
W. Va.	353,768	328,178	92.8	25,590	7.2	600	.2	2.3
REGION IV	9,777,450	7,477,980	76.5	2,299,470	23.5	266,133	2.7	11.6
Ala.	1,180,244	960,473	81.4	219,771	18.6	25,066	2.2	11.4
Fla.	741,685	516,147	69.6	225,538	30.4	27,107	3.7	12.0
Ga.	1,552,721	1,170,291	75.4	382,430	24.6	44,635	2.9	11.7
Ky.	1,149,228	873,855	76.0	275,373	24.0	29,254	2.5	10.6
Miss.	1,442,051	1,180,801	81.6	261,250	18.4	42,662	3.0	16.3
N.C.	1,627,780	1,263,801	77.6	363,979	22.4	73,357	4.5	20.2
S.C.	827,369	566,364	68.5	260,805	31.5	--	--	--
Tenn.	1,296,492	986,448	76.1	310,044	23.9	24,072	1.9	7.8
REGION V	5,312,210	3,958,735	74.5	1,353,475	25.5	207,792	3.9	15.4
Ill.	1,747,720	1,380,151	79.0	367,569	21.0	49,644	2.8	13.5
Ind.	25,237	16,301	64.6	8,936	35.4	--	--	--
Mich.	294,509	237,093	80.5	57,416	19.5	6,121	2.1	10.7
Minn.	401,440	304,673	75.9	96,767	24.1	10,399	2.6	10.7
Ohio	2,656,578	1,875,673	70.6	780,905	29.4	136,639	5.1	17.5
Wisc.	186,770	144,888	77.6	41,882	22.4	4,989	2.7	11.9
REGION VI	6,603,075	5,076,634	76.9	1,526,441	23.1	161,936	2.5	10.6
Ark.	1,796,791	1,400,145	77.9	396,646	22.1	58,445	3.3	14.7
La.	738,403	602,723	81.6	135,680	18.4	--	--	--
N.M.	58,050	33,769	58.2	24,281	41.8	1,347	2.3	5.6
Okla.	480,392	384,200	80.0	96,192	20.0	12,048	2.5	12.5
Texas	3,530,639	2,655,397	75.2	875,242	24.8	90,096	2.6	10.3
REGION VII	2,103,546	1,702,175	80.9	401,371	19.1	58,669	2.8	14.6
Iowa	208,393	189,353	91.3	18,030	8.7	--	--	--
Kansas	1,031,773	810,988	78.6	220,785	21.4	43,996	4.3	19.9
Mo.	819,700	675,792	82.4	143,908	17.6	12,012	1.5	8.3
Nebr.	45,682	27,040	59.2	18,642	40.8	2,661	5.8	14.3
REGION VIII	661,474	507,771	76.8	153,703	23.2	16,704	2.5	10.9
Colo.	410,032	327,989	80.0	82,043	20.0	10,938	2.7	13.3
Mont.	11,515	7,831	68.0	3,684	32.0	90	.8	2.4
N.D.	--	--	--	--	--	--	--	--
S.D.	68,676	51,628	75.2	17,048	24.8	1,054	1.5	6.2
Utah	29,668	21,587	72.8	8,081	27.2	835	2.8	10.3
Wyo.	141,585	98,738	69.7	42,847	30.3	3,787	2.7	8.8
REGION IX	1,221,535	896,291	73.4	325,244	26.6	27,393	2.2	8.4
Amer. Samoa		N O P R O G R A M						
Ariz.	58,272	44,771	76.8	13,501	23.2	575	1.0	4.2
Calif.	1,063,903	774,881	72.8	289,022	27.2	26,820	2.5	9.3
Guam	--	--	--	--	--	--	--	--
Hawaii	99,160	76,439	77.1	22,721	22.9	--	--	--
Nev.	--	--	--	--	--	--	--	--
Trust Terr.		N O P R O G R A M						
REGION X	227,726	166,950	73.3	60,776	26.7	3,613	1.6	5.9
Alaska	--	--	--	--	--	--	--	--
Idaho	--	--	--	--	--	--	--	--
Oregon	227,726	166,950	73.3	60,776	26.7	3,613	1.6	5.9
Wash.	--	--	--	--	--	--	--	--

[1] Percent of gross income
[2] Percent of net proceeds

TABLE C (cont'd)

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Earnings Statement - Fiscal Year 1976
(Non Federal Private Locations by States)

Net Proceeds To Operators		Amount Paid to Operators as Fair Minimum Return		Total Earnings of Operators		Number of Operators	Annual Average Earnings of Operators	State or Territory
Amount	Percent	Amount	Percent	Amount	Percent			
16,778,362	20.7	$ 97,311	.5	16,875,393	20.8	199	$ 8,061	TOTALS
161,309	21.9	--	--	161,309	21.9	19	8,437	REGION I
37,994	21.8	--	--	37,994	21.8	5	7,594	Conn.
--	--	--	--	--	--	0	--	Maine
91,744	20.9	--	--	91,744	20.9	8	11,152	Mass.
--	--	--	--	--	--	0	--	N.H.
31,671	8.9	--	--	31,671	15.9	5	5,698	R.I.
--	--	--	--	--	--	0	--	Vermont
207,930	19.7	--	--	207,930	19.7	33	7,180	REGION II
95,475	26.0	--	--	95,475	26.0	10	12,706	N.J.
112,455	16.3	--	--	112,455	16.3	27	5,528	N.Y.
--	--	--	--	--	--	0	--	Puerto Rico
		N O P R O G R A M						V.I.
1,052,895	18.0	25,986	.3	1,078,871	18.1	122	9,060	REGION III
91,267	14.7	--	--	91,267	14.7	11	8,712	Del.
3,626	18.5	318	2.5	3,944	20.8	1	3,944	D.C.
131,366	18.9	25,764	3.2	177,630	21.1	11	16,104	Md.
641,988	20.7	--	--	641,988	20.6	82	9,118	Penn.
118,166	19.8	1,890	.3	120,056	20.1	12	11,808	Va.
26,890	7.1	1,476	.5	36,364	7.6	9	6,744	W. Va.
2,233,337	20.8	53,214	.5	2,286,551	21.3	323	7,106	REGION IV
194,725	16.8	7,629	1.5	202,354	17.3	44	4,932	Ala.
198,431	26.8	1,773	.2	200,204	27.0	18	11,126	Fla.
417,745	21.9	51,304	.6	468,049	22.5	69	8,137	Ga.
266,319	21.4	--	--	266,319	21.4	30	8,520	Ky.
218,589	15.6	--	--	218,589	15.4	31	7,712	Miss.
290,623	17.9	34,608	2.1	325,230	20.0	47	6,924	N.C.
360,885	31.5	--	--	360,885	31.5	42	8,412	S.C.
285,972	22.1	--	--	285,972	22.1	48	6,828	Tenn.
1,141,683	21.8	2,983	.1	1,148,666	21.8	148	8,304	REGION V
317,925	18.2	2,983	.2	320,908	18.4	37	8,676	Ill.
8,936	35.4	--	--	8,936	35.4	2	11,918	Ind.
51,295	17.4	--	--	51,295	17.4	20	3,540	Mich.
88,368	21.5	--	--	88,368	21.5	12	7,740	Minn.
644,268	24.5	--	--	644,268	24.5	72	9,084	Ohio
38,843	19.8	--	--	38,843	19.8	5	6,228	Wisc.
1,364,505	20.7	3,223	.0	1,367,728	20.7	123	9,231	REGION VI
338,201	19.8	3,223	.2	341,424	19.9	33	7,512	Ark.
133,880	18.2	--	--	133,880	18.2	17	8,486	La.
23,534	40.2	--	--	23,534	40.2	3	23,534	N.M.
84,166	17.7	--	--	84,166	17.7	18	5,424	Okla.
784,948	22.2	--	--	784,948	22.1	134	8,856	Texas
342,702	18.3	5,289	.3	348,170	18.6	43	9,026	REGION VII
18,228	8.7	--	--	18,228	8.7	4	6,190	Iowa
176,786	17.1	4,671	.5	181,457	17.6	18	10,084	Kansas
133,896	16.1	1,397	.2	135,293	16.3	19	7,800	Mo.
13,981	35.0	--	--	13,981	35.0	3	7,992	Nebr.
136,967	20.7	782	.1	137,749	20.8	20	8,851	REGION VIII
71,105	17.3	750	.2	71,855	17.5	6	11,976	Colo.
3,594	31.2	--	--	3,594	31.2	1	4,188	Mont.
--	--	--	--	--	--	0	--	N.D.
15,994	23.1	--	--	15,994	23.1	6	4,920	S.D.
7,268	26.4	--	--	7,268	26.4	1	7,268	Utah
59,040	27.6	--	--	59,040	27.6	5	8,676	Wyo.
297,851	26.4	548	--	298,399	26.6	36	9,300	REGION IX
		N O P R O G R A M						Amer. Samoa
12,928	33.2	548	.8	13,476	33.1	3	5,988	Ariz.
262,202	26.6	--	--	262,203	26.8	31	9,420	Calif.
--	--	--	--	--	--	0	--	Guam
22,721	27.8	--	--	22,721	27.8	2	11,364	Hawaii
--	--	--	--	--	--	0	--	Nev.
		N O P R O G R A M						Trust Terr.
57,163	25.1	1,257	.5	58,420	25.7	8	9,226	REGION X
--	--	--	--	--	--	0	--	Alaska
--	--	--	--	--	--	0	--	Idaho
57,163	25.1	1,257	.6	58,420	25.7	8	9,226	Oregon
--	--	--	--	--	--	0	--	Wash.

TABLE H

RANDOLPH-SHEPPARD VENDING FACILITY PROGRAM
Summary of Vending Facilities by Classification of Locations
FY 1976 (by States)

State or Territory	Federal Locations Number	Federal Locations Increase (Decrease)	Non-Federal Locations Public Number	Public Increase (Decrease)	Private Number	Private Increase (Decrease)	Total Number	Total Increase (Decrease)	Total Federal and Non-Federal Locations Number	Increase (Decrease)	Facilities Per 100,000 Population
TOTALS	482	2	1,646	71	503	(8)	2,149	63	2,631	67	1.19
REGION I	37	-	70	3	18	(1)	88	5	125	8	1.02
Conn.	6	-	20	-	5	-	25	-	31	-	1.00
Maine	4	-	7	3	-	-	7	3	11	3	1.04
Mass.	18	-	18	1	8	(1)	26	-	44	-	.76
N.H.	2	-	13	7	-	-	13	7	15	7	1.83
R.I.	5	1	9	(1)	5	-	14	(1)	19	-	2.05
Vermont	2	(1)	3	-	-	-	3	-	5	(1)	1.06
REGION II	49	-	131	7	29	(3)	160	4	209	4	.74
N.J.	11	-	34	3	9	(1)	43	2	54	2	.74
N.Y.	37	-	97	4	20	(2)	117	2	154	2	.85
Puerto Rico	1	-	--	-	--	-	--	-	1	-	.03
V.I.	--	-	--	-	--	-	--	-	--	-	--
REGION III	207	3	134	7	133	(5)	267	2	474	5	1.98
Del.	3	-	5	-	12	-	17	-	20	-	3.45
D.C.	70	(3)	-	-	1	-	1	-	71	(3)	9.91
Md.	55	2	20	-	13	-	33	-	88	2	2.13
Penn.	23	4	78	4	82	(8)	160	(4)	183	-	1.55
Va.	47	-	21	3	14	4	35	7	82	7	1.65
W. Va.	9	-	10	-	11	(1)	21	(1)	30	(1)	1.66
REGION IV	175	(4)	413	8	316	1	729	9	904	5	2.58
Ala.	19	(1)	72	-	44	1	116	1	135	-	3.74
Fla.	44	1	84	9	22	(3)	106	6	150	7	1.80
Ga.	30	-	81	-	37	(1)	118	(1)	148	(1)	3.00
Ky.	9	(1)	28	-	26	-	54	-	63	(1)	1.86
Miss.	18	(1)	30	(8)	36	(2)	66	(10)	82	(11)	3.50
N.C.	14	(4)	31	1	55	(1)	86	-	100	(4)	1.89
S.C.	10	-	31	1	39	8	70	9	80	9	2.84
Tenn.	33	2	76	5	37	(1)	113	4	146	8	3.49
REGION V	119	-	279	8	139	6	418	14	537	16	1.20
Ill.	24	(1)	41	5	36	1	77	6	101	5	.91
Ind.	15	-	20	(2)	2	2	22	-	37	-	.70
Mich.	25	2	63	(3)	16	2	79	(1)	104	1	1.16
Minn.	22	-	38	1	12	-	50	1	72	1	1.83
Ohio	28	-	96	4	69	-	165	4	181	4	1.78
Wisc.	7	(1)	21	3	4	1	25	4	32	3	.69
REGION VI	107	5	198	15	175	(1)	373	17	480	22	2.18
Ark.	8	(1)	36	9	31	(1)	85	8	93	7	4.40
La.	22	1	68	3	15	(1)	83	2	105	3	2.77
N.M.	14	-	14	(1)	1	-	15	(1)	29	(1)	2.53
Okla.	22	2	35	3	15	(1)	50	2	72	4	2.86
Texas	41	3	67	4	93	2	160	6	181	9	1.48
REGION VII	50	-	40	(3)	37	(4)	77	(6)	127	(6)	1.11
Iowa	11	-	12	-	2	(3)	14	(3)	25	(3)	.87
Kansas	5	-	11	(1)	15	-	26	(1)	31	(1)	1.37
Mo.	29	-	9	-	17	(1)	26	(1)	55	(1)	1.15
Nebr.	5	-	8	(1)	3	-	11	(1)	16	(1)	1.03
REGION VIII	34	(3)	48	3	18	3	64	6	98	3	1.59
Colo.	13	-	31	1	7	-	38	1	51	1	2.01
Mont.	5	-	--	-	1	-	1	-	6	-	.80
N.D.	2	-	--	-	--	-	--	-	2	-	.31
S.D.	5	(1)	2	-	4	2	6	2	11	1	1.61
Utah	6	(2)	9	2	1	-	10	2	16	-	1.33
Wyo.	3	-	4	-	5	1	9	1	12	1	3.21
REGION IX	77	-	283	11	30	(2)	313	9	390	9	1.58
Amer. Samoa	--	-	--	-	--	-	--	-	--	-	--
Ariz.	6	-	26	1	3	1	29	2	35	2	1.54
Calif.	57	(2)	224	8	25	(3)	249	5	306	3	1.44
Guam	--	-	3	-	--	-	3	-	3	-	3.00
Hawaii	5	2	24	1	2	-	26	1	31	3	3.58
Nev.	9	-	6	1	--	-	6	1	15	1	2.53
Trust Terr.	--	-	--	-	--	-	--	-	--	-	--
REGION X	27	1	52	2	8	-	60	2	87	3	1.24
Alaska	2	-	--	-	--	-	--	-	2	-	.57
Idaho	1	-	6	-	--	-	6	-	7	-	.85
Oregon	10	2	20	1	8	1	28	2	38	4	1.68
Wash.	12	(1)	28	1	--	(1)	28	-	40	(1)	1.13

TABLE I
Vending Stands on Federal Property By Agency Granting Permit For Fiscal Year 1976

Name of Federal Agency	Stands Beginning of FY Year	New Stands Established or Transferred During FY Year		Stands Closed or Transferred During FY Year		Stands at End of FY Year
		Est.	Trans.	Closed	Trans.	
Agriculture, Department of....	9	0		0		9
Air Force, Department of the..	10	0		0		10
Army, Department of the.......	21	0		2		19
Atomic Energy Commission......	11	0		0		11
Commerce, Department of.......	2	0		0		2
Defense, Department of........	6	0		1		5
General Services Adm..........	487	36	1	27	1	496
Health, Education & Welfare, Dept. of....................	27	0		0		27
Interior, Department of the...	9	0		0		9
Navy, Department of the.......	15	1		0		16
Tennessee Valley Authority....	8	7		0		15
Treasury, Department of the...	9	1		0		10
U. S. Postal Service..........	224	10	1	19	1	215
Other.........................	42	3	—	7	—	38
TOTAL	880	58	2	56	2	882

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
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Office of Human Development
Rehabilitation Services Administration
OHD/RSA 25506-76

federal register

MONDAY, DECEMBER 20, 1976

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PART II:

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

■

PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Compliance With Standards for Access to and Use of Buildings by Handicapped

Title 36—Parks, Forests, Public Property

CHAPTER XI—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

Compliance With Standards for Access to and Use of Buildings by Handicapped

The Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) was established under § 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391. Section 502(d) (29 U.S.C. 792(d)) provides that the A&TBCB shall hold hearings and issue orders it deems necessary to ensure compliance with the standards of buildings and facilities issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended (42 U.S.C. 4151 et seq.). The provisions of Subchapter II of Chapter 5 and Chapter 7 of Title 5, U.S.C., apply to the A&TBCB procedures. An order of compliance issued by the A&TBCB is a final order for purposes of judicial review. Pub. L. 93-516, 88 Stat. 1621, the Rehabilitation Act Amendments of 1974, provides that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with applicable standards.

The A&TBCB is concerned that ready access to and use of buildings be effective through voluntary compliance with applicable standards. Nevertheless, the A&TBCB has received and is processing numerous complaints of alleged noncompliance.

The A&TBCB on June 10, 1976, 41 FR 23598 et seq., published proposed rules for a formal system for disposition of those complaints which cannot be amicably resolved to ensure accessibility by means of compliance with the applicable standards. The A&TBCB received a total of twenty-seven (27) comments, many of which were very detailed. The agencies of three (3) members of the A&TBCB, the Department of Transportation, Department of Housing and Urban Development, and the United States Postal Service, were among the Federal commentors. Significant input was also received from concerned individuals, public interest law centers, handicapped interested organizations, as well as state and local governments. Those comments are discussed at length in the next part of this preamble. The A&TBCB feels that soliciting public comments concerning the regulations was most helpful to the A&TBCB and is grateful for the constructive suggestions and support expressed by all who participated.

The A&TBCB is continuing development of additional parts of Chapter XI, Part 1150, to fully implement section 502 of the Rehabilitation Act, as amended. This will include guidelines for voluntary compliance for agencies and programs subject to the jurisdiction of the A&TBCB. A more elaborate Guidance for Compliance System Development was published on July 1, 1976, 41 FR 27191 et seq.

PUBLIC COMMENTS

The A&TBCB now turns to the substance of the comments received, addressing them in the sequential order of the regulations.

A. PURPOSE AND APPLICATION OF THE REGULATIONS

A Federal agency proposed adding a new paragraph to § 1150.1 to the effect that these regulations apply only to complaints which have been considered through the full administrative processes of agencies involved. The A&TBCB believes the spirit of this comment has been adopted into the expanded section on informal resolution, § 1150.41. The A&TBCB strongly favors informal resolution of complaints by the agencies involved to provide compliance with the applicable standards and has revised § 1150.1 to that effect.

The A&TBCB wishes to note that as part of the overall Federal compliance program, agencies will be developing inquiry and response systems which will serve to receive and resolve complaints. Such an informal resolution process achieves the same objective as the above referenced agency proposal.

B. DEFINITIONS

Several of the definitions in § 1150.1 were the subject of comments. The intent of the A&TBCB in preparing the proposed rules was to draw upon the statutory and regulatory terms being commonly used by public and private agencies.

One Federal agency commented that several terms, including "building," "construction," "handicapped individual," and "privately owned residential structure" were inappropriate and should be deleted. The definitions form the basic rubrics for implementation of the A&TBCB compliance function. It is the objective of the regulations to provide in one part of the Code of Federal Regulations a complete document, including a glossary of all pertinent terms. Thus, the above-noted terms have been retained in the regulations.

Other comments addressing specific definitions are taken in the sequence of the terms in § 1150.2. It should be noted that the definitions herein are similarly identical to those of the standard issuing agencies.

The A&TBCB has revised the definition of "building" to implement the 1976 Amendments to the Architectural Barriers Act, Pub. L. 94-541. This affects application of the Architectural Barriers Act to various privately owned residential buildings and leased facilities. The expansion of coverage of the Architectural Barriers Act to buildings and facilities of the United States Postal Service does not require any further special elaboration of the definition of "building." USPS buildings and facilities are within the ambit of the definition set out.

This should not be construed as hereby covering USPS facilities. USPS must issue its standards after consultation with the Secretary of Health, Education, and Welfare. These regulations will apply to USPS buildings and facilities as soon as standards are issued.

The term "building," § 1150.2(d), has also been revised by deleting the phrase "may be" in (iii) and substituting the word "is" in lieu thereof. One Federal commentor felt that the proposed language might be construed as a substantive change. That was not intended and the change has been made to more closely follow the definition of "building" in Pub. L. 90-480. This does not effect any change in interpreting the statute. See Opinion of General Counsel, General Services Administration, "First Report of the Architectural and Transportation Barriers Compliance Board," at pages 49-50.

The exclusion of certain military facilities from the definition of the statute follows the statutory language. The issue to be resolved in applying the exception is whether the building is intended primarily for use by able-bodied military personnel, not whether the building is intended for military operations. Consumers cautioned that the statutory exclusion may be difficult to apply. The Department of Defense has embarked upon a program to ensure that all of its facilities are accessible unless they are intended for use exclusively by the able-bodied military personnel. The criterion of "exclusive use" goes beyond the requirement of the statute which establishes "primary use" as the measure of when a facility is covered and when it is not. Thus, while under the statute a new facility intended as a work place for fifty-one (51) able-bodied military personnel and forty-nine (49) civilian workers could be interpreted as not being covered, the Defense Department policy will assure that it is accessible. This exclusive use criterion has, as additional advantages, ease of definition and application.

Including "acquisition" within the definition of "construction," § 1150.2(f), was objected to by two (2) Federal commentors. The definition of construction is taken directly from the Rehabilitation Act which places no limitation on "acquisition" as the commentors proposed.

The definition of "physically handicapped," § 1150.2(i), is the definition in Pub. L. 93-516, the Rehabilitation Amendments of 1974. If an individual has a mental disability which has a physical manifestation, such an individual is an intended beneficiary of the Rehabilitation Act. Thus there has been no deletion of references to mentally handicapped as proposed by Federal agency comments.

A Federal commentor suggested broadening the coverage of the term "privately owned residential structure," § 1150.2(l), to be more consistent with intent under Pub. L. 90-480 and the Housing Act, 42 U.S.C. 1401 et seq. One commentor made a similar type recommendation and the revisions reflect these helpful suggestions.

Several commentors called the A&TBCB's attention to the fact that the A&TBCB enforces all standards issued under the Architectural Barriers Act, not only ANSI 117.1 cited in the proposed rules. Appropriate revision has been made.

There appears to be some slight confusion as to the role of the A&TBCB in the standard-making process. The statutes do not grant the A&TBCB standard-making authority. The Secretary of Health, Education, and Welfare, in his capacity as Chairman of the A&TBCB, consults with GSA, HUD, DoD, and USPS, the standard issuing agencies. While revisions to the current American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, ANSI 117.1 are now under consideration and nearing completion, such revisions will be for the standard-making agencies in the first instance. The A&TBCB does not currently have authority to compel their use or the use of higher standards. Such matters are, of course, within the policy making ambit of the A&TBCB. At such time as new standards are available, the A&TBCB may consider making such policy recommendations or taking other appropriate actions.

C. SCOPE OF RULES

In § 1150.3, Scope of Rules, the references to the Administrative Procedure Act and Federal Rules of Civil Procedure are included to provide the statutory and procedural background for the enforcement proceedings.

D. SUSPENSION OF RULES

Some concern has been expressed about § 1150.5, Suspension of Rules. That section is commonly found in rules for other administrative proceedings, e.g. 45 CFR 81.4. To the knowledge of the A&TBCB this section has never been the source of any difficulty. Should problems be encountered, appropriate revision will be considered.

E. PARTIES-PARTICIPATION

The subject of the parties to the proceeding elicited significant comments from consumer organizations and Federal agencies. The issue raised by two of the Federal agencies was that the physically handicapped have a right to a hearing. One commenter notes, without specific citation of any authority, that while it does not believe that every complaining handicapped person must necessarily be afforded a hearing either under the statute (presumably the Rehabilitation Act) or constitutional due process (again, presumably the 5th and 14th Amendmental requirements, the exclusion of such persons from participation in a hearing involving the subject of their complaint might be vulnerable to court challenge.

The other Federal agency comment expressed concern about the limited role proposed for complainants, many of whom will be physically handicapped, whom the commentor characterizes as the intended beneficiaries of the Rehabilitation Act of 1973. A local government agency expressed a desire that the Board seek legislative change to permit the participation of complainants as a matter of right. This issue is one with wide ranging implications. The test is not merely one of who is the intended beneficiary of the Act. Moreover, it is not always the case that an intended beneficiary of a statute is entitled to an administrative hearing. The intended beneficiaries may well be intended to have a direct right of court action. See *Cort* v. *Ash*, 422 U.S. 66 (1975) and authorities cited therein.

This issue of the individual's right to bring a private law suit under the Architectural Barriers Act, Pub. L. 90-480, as affected by the enactment of subsequent social-welfare legislation, including Pub. L. 93-112, is now pending before the Court in *Washington Urban League* v. *WMATA*, Civil No. 776-72, United States District Court, District of Columbia. The A&TBCB does not wish to prejudice the Court's decision in any way and, therefore, is expressly stating that its revision to § 1150.12, Participation on Petition, is based solely on policy grounds. The section creates a presumption that the interest of a person as a complainant is sufficient to permit participation in compliance proceedings. The A&TBCB expects and intends this provision to lead to participation in compliance proceedings by all complainants who so desire.

Adoption of this policy has several benefits. It permits a complainant to participate if it so elects. Yet, at the same time, the onus of initiating compliance remains on the Executive Director so that there must not be enforcement proceedings in every instance, particularly if the Executive Director can effect informal resolution. The A&TBCB recognizes that many disabled individuals are first beginning to come into contact with Federally occupied or funded buildings. The A&TBCB also recognizes that some disabled individuals would prefer not to participate out of a fear of possible recriminations against them. The instant revision will permit full participation as intervenor or in the more limited role as amicus curiae by those who so elect. The A&TBCB believes this policy is responsive to the public comment received on the issue. Whether or not a complainant participates in proceedings, he will be kept apprised by A&TBCB staff of all developments in the proceedings.

Before passing from this area, it must be observed that ablebodied, as well as disabled, individuals benefit from accessible and usable buildings. A barrier-free environment permits the meaningful contribution of all individuals to society.

A consumer group felt that there should be a document in lay terms explaining the procedures to be followed. It is the A&TBCB practice to prepare pertinent informational materials readily understandable by lay people. These enforcement procedures will assuredly be incorporated into that effort. In this connection, it must be observed that copies of the proposed rules were made available in braille and cassettes. Copies of the finalized rules will similarly be available.

There were some comments to the effect that the distinction between intervenors and amicus curiae, §§ 1150.13 and 1150.14, was somewhat blurred. The proposed distinctions did not serve any purpose in an administrative process, which should lean towards informality and permissiveness. Much discretion in this area has been provided the administrative law judge in the revised consolidated § 1150.12, Participation on Petition.

One of the public interest law centers suggested regarding § 1150.14, Appearance (formerly numbered § 1150.15), that there should be provision allowing for appointment of counsel for prospective intervenors and amici that the Board feels would be more effectively represented if counsel were speaking for them. The commenter realizes the limits of the A&TBCB to pay for attorneys and suggests that a volunteer pool be assembled for service. The A&TBCB does not want to raise the spectre of offering assistance which in fact it may not be able to provide. The compliance hearings will undoubtedly be held all across the country, commensurate with the Federal physical and financial presence. Establishment of a volunteer pool may prove quite difficult and, before changing its regulations in a manner which would encourage such volunteer participation, the A&TBCB will have to ascertain the extent of commitment of such aid.

F. SIGNATURE OF DOCUMENTS

The need for the last sentence of § 1150.22 was questioned by one Federal agency. It was included to discourage the imposition of unnecessary documents. Cf. 45 CFR 81.32.

G. INFORMAL RESOLUTION

By far the most significant dialogue produced by the comments pertained to the initiation of compliance proceedings and the informal resolution process.

The A&TBCB will be looking to the affected agencies in the first instance to informally resolve complaints of alleged noncompliance with the standards. Section 1150.41 has been expanded to reflect this. The regulations provide for the immediate forwarding to all concerned parties of complaints. All complaints received by the A&TBCB will be treated in a manner so as to preserve the confidentiality of complainants noted under § 1150.12.

The A&TBCB recognizes that the enforcement process may have a profound impact if Federal funds are withheld or suspended as the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, do indeed authorize. Enforcement proceedings do not suddenly arise. Invariably there is an adequate prelude to litigation.

In § 1150.41, Informal Resolution, the A&TBCB is providing an opportunity for the parties to amicably resolve their differences. The parties, during this initial period, will have the opportunity, as one of the Federal commentors noted, to gather pertinent information thereby alleviating any problems in connection with the timing of the litigation. In seeking to informally resolve complaints, the A&TBCB is mindful of the August 31, 1976, decision in *Washington Urban League v WMATA*, Civil No. 776-72, D.D.C., in which the Court held that for a building to be in compliance with the Architectural Barriers Act it must have operational facilities for the disabled. It is not enough for such facilities to be planning to or in the process of installation. Thus informal resolution by the A&TBCB will be with a view, consistent with consumer comment, to providing full compliance with applicable standards.

The objective of the informal resolution process is to amicably achieve compliance with the prescribed standards, not to satisfy individual complainants. The A&TBCB recognizes that the physical changes may not be completed within the voluntary compliance period. The Executive Director in determining whether to issue a citation will consider the totality of the compliance situation.

As a necessary adjunct to the informal resolution, the A&TBCB realizes it will be necessary for it to interpret the accessibility standards it is enforcing, cognizant, of course, of the significant expertise of the standard issuing agencies who consult with the Secretary of Health, Education, and Welfare in his statutory capacity of Chairman, A&TBCB. Accordingly, the suggestion of a Federal agency that the A&TBCB delete "standard interpretation" has not been incorporated. The A&TBCB trusts that this preamble mirrors its views on the primacy of interpretation of the agencies issuing the Architectural Barriers Act standards.

Several comments were received from consumers and affected agencies about the informal resolution under § 1150.41 and the commencement of formal proceedings under § 1150.42. The A&TBCB is mindful that the President issued Executive Order 11914 on April 28, 1976, Nondiscrimination With Respect to the Handicapped in Federally assisted Programs. Under E.O. 11914, the Secretary of Health, Education and Welfare is authorized to adopt rules and regulations and issue orders implementing section 504 of the Rehabilitation Act, 29 U.S.C. 794. The Secretary is to ensure that such rules, regulations, and orders are not inconsistent with, or duplicative of, other Federal government policies relating to the handicapped, including those policies adopted in accordance with section 502 of the Rehabilitation Act and the Architectural Barriers Act. Subsequent to the issuance of the A&TBCB proposed rules, the Secretary of Health, Education, and Welfare issued proposed rules under which a complaint involving a facility of a recipient subject to section 504, as well as section 502, will be deferred for a period not to exceed sixty (60) days pending review by the A&TBCB, proposed 45 CFR 84.23, 41 FR 29564 (July 16, 1976). While the referenced regulations apply only to HEW programs and only affect the A&TBCB jurisdiction over HEW buildings and facilities receiving financial assistance from HEW, it is the A&TBCB's understanding that the HEW issuance will become the model for future regulations implementing section 504 to be issued by other governmental departments and agencies. In this respect, the A&TBCB will execute a Memorandum of Understanding, formalizing its arrangements with the Secretary of HEW once regulations under sections 502 and 504 are finalized.

Accordingly, the A&TBCB has imposed a maximum sixty-day (60) period on the informal resolution process. At the end of the time period, a citation or a determination not to proceed will be issued and served upon all interested parties, including the complainant. Failure of the A&TBCB to act upon a citation within (60) days will be deemed a determination not to proceed thereon. Thus, the delay in processing a complaint will not preclude exhaustion of the administrative remedy of the A&TBCB. Sections 1150.41 and 1150.42 have been appropriately revised, thereby providing a timely mechanism for both the agencies and consumers. A similar approach is currently used in connection with equal employment opportunity actions under Title VII of the Civil Rights Act, 42 U.S.C. 2000e et seq.

The A&TBCB hastens to add that the sixty (60) day period is the maximum period allowed because of the nature of the work, i.e., construction, involved. The A&TBCB also hastens to reiterate its previous urgings of a prompt, voluntary compliance with all standards.

II. INITIATION OF COMPLIANCE PROCEEDINGS

Federal agencies expressed concern about the Executive Director issuing citations. One Federal commentor suggested that the citation should be issued by the Executive Director only after approval by the Board, or if time does not permit, after approval by a subcommittee.

The A&TBCB complaint initiation process is not unique. The National Labor Relations Board has successfully utilized a process similar to the procedures here. See 29 CFR Part 101. The Department of Labor implements enforcement of the Occupational Safety and Health Act construction standards, as well as the Longshoremen's and Harbor Workers' Compensation Act in similar federally initiated processes, 29 CFR Parts 1926 and 1921, respectively. For an illustrative implementation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (employment discrimination) providing a similar process, see 45 CFR Part 80 et seq.

The Rehabilitation Act Amendments of 1974, Pub. L. 93-516, authorized the A&TBCB to order the suspension or withholding of funds for a building found not to be in compliance with accessibility standards. The Congressional intent in 1974 was to augment the A&TBCB as an enforcing body. In that context, the Congress authorized the Board to have permanent staff under the direction of the Executive Director, thereby providing basic continuity and consistency in compliance and other A&TBCB matters, Sen. Reps. 93-1139, 93-1297, 94th Cong., 2nd Sess. (1974).

In establishing the system of reliance on the permanent staff and administrative law judges at the trial level, the A&TBCB recognizes that the Board member should primarily be functioning at a high level as a policymaker. Also, by insulating the Board from the initial stages of the process while providing judicial safeguards, there can be no question, as one consumer group implied, about the integrity of the A&TBCB proceedings.

The Federal comment to have A&TBCB approve the issuance of a citation would have precluded further Board participation at the more policy oriented appellate level as a clear conflict of interest would exist. The trial and appellate functions must be carefully separated. Further, A&TBCB, at its March 1976 meeting, has decided not to establish committees commensurate with A&TBCB staffing functions, including compliance.

The A&TBCB deems it advisable that all Federal agencies designate liaison persons upon whom the citation may be served. This will facilitate the agencies' participation in the formal proceedings.

Minor technical clarifying changes have also been made.

I. PER (PROVISIONAL EXPEDITED RELIEF)

The subject of PER, particularly §§ 1150.42 and 1150.82, elicited strong comments from consumers advocating its retention as essential. The Federal agencies objecting to PER did so principally on the basis of the inadequacy of time frames for the process, including for an appeal. These comments overlook the informal resolution process of § 1150.41 during which all potential litigants will be apprised of the potential charges of noncompliance that may be lodged. Also, the time periods in the appeal of PER have been extended in the revised § 1150.10[illegible]. Moreover, since the Federal Rules of Civil Procedure are applicable here, § 1150.3, all motions permitted thereunder, such as for extension of time to file a pleading, will be available. It is not necessary to specify, as one commentor suggested, precisely all the motions, including summary judgments, which are available under the Federal Rules of Civil Procedure.

All too often the delays attendant to processing valid complaints may make any subsequent victory pyrrhic at most. Justice must not be denied by delaying it. PER is designed to ensure that does not occur here. By providing an expeditious determination, at least preliminarily, the nominal cost impact of a situation may be minimized. The costs of redoing and remodeling a completed structure to make it accessible far exceeds the .1% (one tenth of one percent) the Comptroller General found to be the net cost of incorporating barrier-free-design in the initial design. See GAO Report "Further Action Needed to Make Public Buildings Accessible," B-182030—July 15, 1975.

There was concern by a Federal agency over the possible amendment of the initial PER pleading. Section 1150.44 provides for amendment of such pleadings only with permission of the judge to preclude any undue hardship.

J. JUDGES

Section 1150.51 relating to who presides at hearings was of some concern. A Federal agency felt that the Chairman or Board members should not exercise the responsibilities of a judge since it would be inconsistent with the separate judicial function intended by the Congress. The A&TBCB shares the agency's concern. However, at present, the active caseload of the A&TBCB is not sufficient to permit the A&TBCB to retain an administrative law judge on its staff. Arrangements have been made with the Civil Service Commission to have such judges designated and available to hear A&TBCB cases on a reimbursable basis. This is the standard operating procedure for new adjudicatory bodies.

As the caseload rises and a permanent judge is employed by the A&TBCB, neither the Chairman nor members of the A&TBCB will be involved at the trial level. At present, the Vice Chairman and other members may have to participate since the Chairman may be disqualified because of a conflict of interest if, for example, an HEW facility were involved. To preclude any possible conflict of function between the trial and appellate levels, while recognizing the abbreviated nature of the member's participation of the trial level, an additional section (b) has been added to § 1150.114 regarding conflict of interests. This is responsive to suggestions by state government agencies.

The Chairman of the A&TBCB on behalf of the A&TBCB is to delegate the assignment of the judge. At such time as the A&TBCB employs more than one judge then § 1150.52 may require further revision. In the interim, while using the system of reimbursing judges made available through the Civil Service Commission, the Chairman or, in the event of his unavailability another member of the A&TBCB will designate the judge made available by the Civil Service Commission and eventually the A&TBCB's judge.

K. DISCOVERY

Discovery should be of little difficulty as the procedures here are patterned after other like provisions. The discretion of the judge in § 1150.62 is patterned in part on the experience of the Interior Board of Contract Appeals, an administrative tribunal well versed in construction cases. See 43 CFR Part 4. The prehearing order under §1150.61 could include agreements reached in the informal resolution period. It has not been included in § 1150.61 as one consumer group suggested since the parties may well elect to include it in either the citation or the answer.

L. WITNESS FEES

It was commented that the A&TBCB pay for aides attending witnesses to A&TBCB proceedings. The A&TBCB recognizes this problem and pays for travel expenses of attendants consistent with Federal travel guidelines. Section 1150.73(d) is consistent with this.

M. TRIAL TRANSCRIPT

The A&TBCB received several clarifying suggestions concerning the trial transcript and the appeal process. There is currently no provision for third parties proceeding "in forma pauperis" receiving free transcripts. Should such a situation arise, the A&TBCB will make such a transcript available should the judge in granting a third party's motion to appeal not make such a ruling.

N. APPEALS IN GENERAL AND TIMING THEREOF

To correct an inconsistency concerning the decision process in §§ 1150.101(a) and § 1150.102(a), § 1150.102(a) has been revised to reflect that the judge's decision is to be issued within twenty (20) days after the close of the adversarial phase of the trial whether or not briefs and findings are required.

Under the A&TBCB procedure the administrative law judge issues a recommended decision which becomes final if no appeal is taken. The judge, in his discretion and as the record warrants, may make specific recommendations as to corrective actions and sanctions to be taken to effectuate compliance. If a record does not warrant it, the judge will not make any recommendations.

Some concern was expressed by Federal agencies, as well as one of the public interest law organizations, about the times for appealing the judge's decision. To avoid any possible suggestion that the appeal times and other time frames in the Part are so short as to be a denial of due process and violative of the Administrative Procedure Act, the previously proposed time frames in § 1150.103 have been extended for both the regular and PER proceedings.

There have been further changes to make clear that an intervening party has standing to take an administrative appeal and to avoid confusion with § 1150.76 regarding exceptions. Consistent corrective changes have been made in §§ 1150.104 and 1150.105.

Section 1150.104 provides that the record for the A&TBCB decision includes the record for the decision of the judge. Under § 1150.91, this will include the transcript of the proceedings before the judge.

There was considerable consumer comment that there should be some time limit for the totality of the compliance process and the time for the A&TBCB decision. No Federal agency expressed any view on this aspect of the regulations. It is the current A&TBCB expectation that appeals will be acted upon within the context of the A&TBCB's present bimonthly meetings. The A&TBCB organizational procedures for its public meetings do permit special meetings to be convened. The A&TBCB decision will be on the basis of the standard Administrative Procedure Act criteria which provide the overall framework, § 1150.3, for these proceedings. Constitutional error, as one consumer organization noted, may be also a basis for A&TBCB decision. In this light, the A&TBCB, while not delineating any specific decisional criteria, will strive to make its decisions within a maximum of sixty (60) days after filing of the appeal and one hundred eighty (180) days after filing the complaint. However, the potential complexity of a large construction project precludes the imposition of any more definite time. A policy statement to this effect is included in § 1150.105(e). The stated time objectives will not automatically give rise to court review, but are strictly goals to provide an effective administrative process. The one hundred eighty (180) day limitation is similar to that found in Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-5(f)(1). The overall limitation is the maximum period feasible in light of the nature of the subject matter, construction, and the need to provide a timely solution for all interested parties.

The A&TBCB is aware that other statutes such as the Education Act Amendments of 1976, Pub. L. 94-482, may necessitate a different time period for the totality of the administrative process to run its course. The aforementioned Pub. L. 94-482 provides a maximum period of one hundred fifty (150) days to terminate financial assistance to a local educational agency on a basis of noncompliance with civil rights statutes. Therefore, the A&TBCB has added the qualifying "or other time period applicable by law" to the Board's time frame objectives.

The word "recommended" in § 1150.105(d) has been deleted as superfluous.

O. JUDICIAL REVIEW

Section 1150.106 restates the provision for judicial review of the Federal Act. The A&TBCB believes it is sufficiently clear at this point.

P. EX PARTE COMMUNICATIONS AND CONFLICT OF INTERESTS

The Conflict of Interests and Ex Parte Communication provisions have been made into separate sections with appropriate renumbering. The staff of the A&TBCB, as well as the Board, must seek to avoid any conflict of interest or the appearance of one. Staff will be expected to perform separate functions in the compliance network. Thus, those individuals involved in the initiation of the enforcement function, in an administrative, investigatory, or legal role, shall not and will not be similarly involved advising on an appeal of such a matter.

The A&TBCB policy has been and continues to be to hold all of its meetings open to the public. Should the A&TBCB elect to consider the initiation, conduct, or disposition of a particular case of formal agency adjudication in executive session, it will do so as authorized by the Sunshine Law, Pub. L. 94-409, after a vote by a majority of the entire membership of the Board. The A&TBCB will be consulting with the Office of the Chairman of the Administrative Conference and will duly publish necessary regulations implementing the Sunshine Law.

CONCLUSION

This Part 1150 is issued under the authority of section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 29 U.S.C. 792, 87 Stat. 391, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 88 Stat. 162.

The Architectural and Transportation Barriers Compliance Board has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

In consideration of the foregoing Part 1150 is added to Title 36 of the Code of Federal Regulations to read as set forth below and as approved at the December 7, 1976, special meeting of the A&TBCB.

Effective: These procedures are effective December 7, 1976.

Dated: December 14, 1976.

STANLEY B. THOMAS, Jr.,
Chairman, Architectural and Transportation Barriers Compliance Board.

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Subpart A—General Information

§ 1150.1 Purpose and application.

The purpose of the regulations in this part is to implement section 502 of the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391, 29 U.S.C. 792, as amended, to provide procedures for public hearings to require compliance with the standards issued pursuant to the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 et seq. It is the policy of the Architectural and Transportation Barriers Compliance Board to ensure maximum compliance through amicable resolution of compliance related matters. To this end, the Architectural and Transportation Barriers Compliance Board encourages the voluntary informal resolution of compliance related matters.

These regulations apply to all buildings designed, constructed, or altered after the effective date of a standard issued under the Architectural Barriers Act of 1968 applicable to such buildings.

§ 1150.2 Definitions.

(a) "A&TBCB" means the Architectural and Transportation Barriers Compliance Board.

(b) "Agency" means Federal department, agency or instrumentality as defined in Subchapter II and Chapter 7 of Title 5 of the United States Code or an official thereof.

(c) "Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 et seq.

(d) "Building" means any building or facility, including the site thereof and structures appurtenant thereto (other than (1) A privately owned structure not leased by the government on or after January 1, 1977, for subsidized housing programs including any renewal of a lease entered before January 1, 1977, which renewal is on or after such date and (2) any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use of which either will require that such building or facility be accessible to the public, or may result in the employment or residence therein of physically handicapped persons, which building or facility is (i) To be constructed or altered by or on behalf of the United States; or (ii) to be leased in whole or in part by the United States (a) After August 12, 1968 and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States, or (b) on or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date; or (iii) to be financed in whole or in part by a contract, grant or loan made by the United States after August 12, 1968, if such building or facility is subject to standards for design, construction or alteration issued under the law authorizing the grant or loan; or (iv) to be constructed under the authority of the National Capital Transportation Act of 1965 or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(e) "Chairman" means the Chairman of A&TBCB.

(f) "Construction" means the construction of a new building, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings.

(g) "Day" means calendar day.

(h) "Executive Director" means the A&TBCB Executive Director.

(i) "Handicapped Individual" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such impairment, or (3) is regarded as having such an impairment.

(j) "Judge" means the Administrative Law Judge appointed or designated by the A&TBCB pursuant to Section 502 (e) of the Rehabilitation Act.

(k) "PER" means Provisional Expedited Relief.

(l) "Privately Owned Residential Structure" means a residential building or facility not owned by a Federal agency or instrumentality, a state, county, municipal or other governmental entity, or a political subdivision thereof, or an instrumentality of a state, county, municipal or other governmental entity or of a political subdivision thereof.

(m) "Rehabilitation Act" means the Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 391, 29 U.S.C. 792, as amended.

(n) "Respondent" means a party answering the citation, including PER citation.

(o) "Standard" means any standard for accessibility and usability prescribed pursuant to the Architectural Barriers Act.

§ 1150.3 Scope of rules.

(a) These rules shall govern all compliance proceedings before the A&TBCB and judges.

(b) In the absence of a specific provision in these rules, procedure shall be in accordance with the Administrative Procedure Act, Subchapter II of Chapter 5 and Chapter 7, of Title 5, United States Code and the Federal Rules of Civil Procedure in that order.

§ 1150.4 Use of gender and number.

(a) Words importing the singular number may extend and be applied to a plural and vice versa.

(b) Words importing the masculine gender may be applied to feminine gender.

§ 1150.5 Suspension of rules.

Upon notice to all parties, the Chairman or the judge, with respect to matters pending before them, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the ends of justice will thereby be served.

Subpart B—Parties

§ 1150.11 Parties.

(a) The term party shall include any agency, state body, or other person to whom a notice of hearing or opportunity for hearing has been mailed naming them as respondent.

(b) The Executive Director shall be the party initiating proceedings hereunder by the issuance of a citation under § 1150.42.

§ 1150.12 Complainants.

(a) A person submitting a written complaint alleging noncompliance with the standards issued pursuant to the Architectural Barriers Act is not a party as a matter of course to the proceedings governed by these regulations, but may petition to participate under § 1150.13. Whether or not the petition to participate is granted, the complainant shall receive a copy of the final order issued by the judge and the A&TBCB.

(b) The identity of all persons submitting complaints shall be held in confidence unless such person requests otherwise in writing.

(c) All persons submitting written complaints shall be given or mailed, by certified mail, return receipt requested, a copy of these regulations.

§ 1150.13 Participation on petition.

(a) Any interested person may petition the judge to participate in the proceedings upon showing that such a person has an interest in the proceedings and may contribute materially to their proper disposition. It shall be presumed that the interest of a person as a complainant is a sufficient interest to permit participation in the proceedings.

(b) The judge may, in his discretion, determine the extent of participation of petitioners, including as an intervening party or participant. The judge may, in his discretion, limit participation to submitting documents and briefs, or permit the introduction of evidence and questioning of witnesses.

§ 1150.14 Appearance.

(a) A party may appear in person or by counsel or other representative and participate fully in any proceedings. An agency, state body, or corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf.

(b) A representative of a party or participant shall be deemed to control all matters respecting the interest of such party or participant in the proceedings.

(c) Nothing contained herein shall be construed to require any representative to be an attorney-at-law.

(d) Withdrawal of appearance of any representative will be effective by filing a written notice of withdrawal and by serving a copy thereof on all parties and participants.

Subpart C—Form, Execution, Service and Filing of Documents

§ 1150.21 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long.

§ 1150.22 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certification that he has read the document, that to the best of his knowledge, information, and belief there is a good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed.

§ 1150.23 Filing and service.

All notices by a member of the A&TBCB or A&TBCB staff, and all written motions, requests, petitions, memoranda, pleadings, appeals, briefs, decisions, and correspondence to the judge, or an A&TBCB member or A&TBCB staff from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties and participants. Parties shall submit for filing the original and two copies of documents, exhibits, and transcripts of testimony. Filings shall be made with the hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (Federal legal holidays excepted) from 9 a.m. to 5:30 p.m., Eastern Standard or Daylight Savings Time, whichever is effective in the District of Columbia at the time. Filing may be in person or by mail.

§ 1150.24 Service—how made.

Service of one copy shall be made on each party and participant by personal delivery or by certified mail, return receipt requested, properly addressed with postage prepaid. When a party or participant has appeared by attorney or other representative, service upon such attorney or representative will be deemed service upon the party or participant.

§ 1150.25 Date of Service.

The date of service shall be the day when the matter is deposited in United States mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or the date that its attempted delivery is refused.

Subpart D—Time

§ 1150.31 Computation.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which event it includes the next following business day. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

§ 1150.32 Extension of time or postponement.

Requests for extension of time shall be served on all parties and participants, and should set forth the reasons for the application. Applications may be granted by the judge upon a showing of good cause by the applicant. From the designation of a judge until the issuance of his decision, such requests should be addressed to him. Answers to such requests are permitted if made promptly.

Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

§ 1150.41 Informal resolution.

(a) The A&TBCB immediately shall serve copies of complaints on all relevant agencies and interested parties.

(b) All such complaints should be resolved informally and expeditiously, if possible, by the responsible parties. Should compliance with the applicable standards not be achieved informally or an impasse concerning the allegations of compliance or noncompliance be reached, the A&TBCB will review the matter and take such actions including, but not limited to, surveying and investigating buildings, monitoring compliance programs of agencies, furnishing technical assistance, including standard interpretation, to agencies, and obtaining such assurances, certifications, and plans of action as may be necessary to ensure compliance.

(c) To the extent practicable, in the course of informally resolving allegations of noncompliance, any person who might be a party to compliance proceedings should be apprised of the alleged instances of noncompliance and afforded the opportunity to respond or submit pertinent documents.

(d) All actions under this § 1150.41 shall be completed within sixty (60) days after receipt of the complaint by the A&TBCB and all affected agencies either by the issuance of a citation under § 1150.42 or by the issuance by the Executive Director of a written determination that a citation will not be issued stating the reasons therefor.

(e) A determination not to issue a citation shall be served in accordance with § 1150.24 on all interested parties upon whom a citation would have been served if a citation had been issued.

§ 1150.42 Citations.

(a) If there appears to be a failure or threatened failure to comply with the standards issued pursuant to the Architectural Barriers Act, and if the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41 within sixty (60) days after receipt of the complaint by the A&TBCB, all affected agencies and interested parties, the Executive Director shall issue a written citation requesting the A&TBCB to order such relief as is necessary to ensure compliance with the standards issued pursuant to the Architectural Barriers Act, which relief may include the suspension or withholding of funds. The citation shall be served upon all interested parties, including the complainant, the agency having custody or control of, and the agency funding by contract, grant, or loan, the allegedly noncomplying building. The citation shall contain a concise jurisdictional statement reciting the provisions of the Rehabilitation Act and Architectural Barriers Act pursuant to which the requested action may be taken, as well as a short and plain basis for requesting the imposition of the sanctions. The citation shall also (1) (a) advise the agency and interested parties that a hearing concerning the matter in question will be scheduled within fifteen (15) days at which time they will be advised of the time and place of hearing or (b) fix a date, not less than fifteen (15) days after the date of citation within which the agency or affected parties may request a hearing, and (2) contain a list of all pertinent documents necessary for the judge to make a decision on the alleged noncompliance, including, but not limited to, contracts, invitations for bids, specifications, contract or grant drawings, and correspondence.

(b) In addition to all other forms of relief requested, the citation shall request PER when it appears to the Executive Director that immediate and irreparable harm from noncompliance with the standards issued pursuant to the Architectural Barriers Act is occurring or is about to occur. Citations requesting PER shall recite specific facts and the affidavit or the notarized complaint upon which the PER request is based. Citations requesting PER shall recite that a hearing regarding PER has been scheduled eight (8) days after receipt of the citation. Citations requesting PER may be filed without [illegible] to proceedings in which PER is not requested. The time and place of hearing fixed in the citation shall be reasonable and shall be subject to change for cause.

(c) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.

§ 1150.43 Answers.

(a) Answers shall be filed by respondents within fifteen (15) days after receipt of a citation. The answer shall admit or deny specifically and in detail matters set forth in each allegation of the citation, unless the respondent is without knowledge, in which case the answer shall so state and such statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Failure to file an answer shall constitute an admission of all facts recited in the citation. Answers shall contain a list of additional pertinent documents not listed in the citation which documents respondent believes are necessary for the Board or the judge to make a decision in the proceedings herein. Copies of the listed documents shall be filed with the answer.

(b) Answers to citations requesting PER shall be in the form of all answers, as set forth in subparagraph (a) above, shall be filed within four (4) days after receipt of the citation, and shall recite in detail by affidavit or by notarized answer why the PER requested should not be granted.

(c) When a citation contains a request for relief to ensure compliance with standards issued pursuant to the Architectural Barriers Act, as well as PER, an answer to the PER request shall be filed in accordance with subparagraph (a) above.

§ 1150.44 Amendments.

(a) The Executive Director may amend the citation as a matter of course before an answer is filed. A respondent may amend its answer once as a matter of course not later than five (5) days after the filing of the original answer. Other amendments of the citation or the answer shall be made only by leave of judge. An amended citation shall be answered within five (5) days of its service, or within the time for filing an answer to original notice, whichever is longer.

(b) Citations and answers in PER proceedings may not be amended prior to hearing. However, citations and answers in such proceedings may be amended at the hearing with the permission of the judge.

§ 1150.45 Request for hearing.

Within fifteen (15) days from service of a citation which does not fix a date for a hearing, the respondent, either in its answer in a separate paragraph thereof, or in a separate document, may request a hearing. Failure of a respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute consent to the making of a decision on the basis of such information as is available.

§ 1150.46 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally or the judge may require that they be reduced in writing and filed and served on all parties. Except as otherwise ordered by the judge, responses to a written motion or petition shall be filed within ten (10) days after the motion or petition is served. An immediate oral response may be made to an oral motion. All arguments on motions will be at the discretion of the judge.

§ 1150.47 Disposition of motions and petitions.

The A&TBCB or the judge may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response; providing, however, that prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. All motions and petitions may be ruled upon immediately after response. Motions and petitions not disposed of in separate rulings or in decisions will be deemed denied.

Subpart F—Responsibilities and Duties of Judge

§ 1150.51 Who presides.

(a) A judge assigned under 5 U.S.C. 3105 or 3344 (formerly section 11 of the Administrative Procedure Act) shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

(b) Pending designation of a judge, the responsibilities, duties and authorities of the judge under these regulations shall be executed by the A&TBCB through the Chairman or other member of the A&TBCB designated by the Chairman.

(c) The Chairman or other member of the A&TBCB designated by the Chairman shall preside over proceedings before the A&TBCB.

§ 1150.52 Designation of judge.

The Chairman or other member of the A&TBCB designated by the Chairman shall designate a judge as presiding. Such designation shall be in writing and may also fix the time and place of hearing. A copy of such designation order shall be served upon all parties. Motions and petitions shall be submitted to the designated judge. In the case of the death, illness, disqualification or unavailability of the designated judge, a replacement shall be designated in accordance with this paragraph.

§ 1150.53 Authority of judge.

The judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and maintain order. He shall have all powers necessary to effect these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, on due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in proceedings, or to consider other matters that may aid in the expeditious disposition of the proceedings.

(c) Require parties and participants to state their position with respect to the various issues in the proceedings.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue decisions.

(k) Take any action authorized by the rules in this part or the provisions of 5 U.S.C. 551-559 (the Administrative Procedure Act).

§ 1150.54 Disqualification of judge.

(a) A judge may withdraw from a proceeding whenever he deems himself disqualified.

(b) Any party may request the judge, at any time following his designation and before the filing of his decision, to withdraw on ground of personal bias or disqualification, by promptly filing with him an affidavit setting forth in detail the matters alleged to constitute grounds for disqualification.

(c) If, in the opinion of the judge, the affidavit referred to in paragraph (b) of this section is filed with due diligence and is sufficient on its face, the judge shall forthwith disqualify himself and withdraw from the proceeding.

(d) If the judge does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and shall proceed with the hearing, or, if the hearing has closed, he shall proceed with the issuance of his decision, and the provisions of § 1150.102 shall thereupon apply.

Subpart G—Prehearing Conferences and Discovery

§ 1150.61 Prehearing conference.

(a) At any time before a hearing, the judge, on his own motion or on motion of a party, may direct the parties or their representatives to exchange information or to participate in a prehearing conference for the purpose of considering matters which tend to simplify the issues or expedite the proceedings.

(b) The judge may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served upon all parties and participants and shall be a part of the record.

§ 1150.62 Discovery.

(a) Parties are encouraged to engage in voluntary discovery procedures. For good cause shown under appropriate circumstances, but not as a matter of course, the judge will entertain motions for permission for discovery, issue orders including orders for the taking of testimony upon oral examination or written interrogatories before an officer authorized to administer oaths, to permit service of written interrogatories upon the opposing party, to produce and permit inspection of designated documents, and to permit service upon the opposing party a request for the admission of specified facts.

(b) Motions for discovery shall be granted only to the extent and upon such terms as the judge in his discretion considers to be consistent with and essential to the objective of securing a just and inexpensive determination of the merits of the citation without unnecessary delay.

(c) In connection with any discovery procedure, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. If any party fails to comply with a discovery order of the judge under these rules, without an excuse or explanation satisfactory to the judge for such failure, the judge may decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with claims of the other party in interest or in accordance with the other evidence available to the judge, or make such other ruling as he determines just and proper.

Subpart H—Hearing Procedures

§ 1150.71 Briefs.

The judge may require parties and participants to file written statements of position prior to the beginning of a hearing. The judge may also require the parties to submit trial briefs.

§ 1150.72 Evidentiary purpose.

Hearings for the receipt of evidence will be held only in cases where issues of fact must be resolved. Where it appears from the citation, the answer, stipulations, or other documents in the record, that there are no matters of material fact in dispute, the judge may enter an order so finding, vacating the hearing date, if one has been set, and fixing the time for filing briefs.

§ 1150.73 Testimony.

(a) Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available will be applied. Testimony shall be given orally under oath or affirmation; but the judge, in his discretion, may require or permit the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record.

(b) All witnesses shall be available for cross-examination and, at the discretion of the judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding.

(c) When testimony is taken by deposition, an opportunity shall be given, with appropriate notice, for all parties to cross-examine the witness. Objections to any testimony or evidence presented therein shall be deemed waived unless raised at the time of the deposition.

(d) Witnesses appearing before the judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witness appears, and the person taking a deposition shall be paid by the party at whose instance the deposition is taken.

§ 1150.74 Exclusion of evidence.

The judge may exclude evidence which is immaterial, irrelevant or unduly repetitious.

§ 1150.75 Objections.

Objections to evidence or testimony shall be timely and shall briefly state the grounds.

§ 1150.76 Exceptions.

Exceptions to rulings of the judge are unnecessary. It is sufficient that a party, at the time the ruling of the judge is sought, makes known the action which he desires the judge to take, or his objection to an action taken, and his grounds therefor.

§ 1150.77 Official Notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 1150.78 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees or administrative agencies of the Federal government (including government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 1150.79 Offer of proof.

An offer of proof made in connection with an objection taken to a ruling of the judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 1150.80 Appeals from ruling of judge.

(a) Rulings of the judge may not be appealed to the A&TBCB prior to his consideration of the entire proceeding except with the consent of the judge and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the A&TBCB within such period as the judge directs.

(b) There shall be no oral argument or appearances on any appeal or any motion unless the A&TBCB directs otherwise.

§ 1150.81 Consolidated or joint hearing.

In cases in which the same or related facts are asserted to constitute noncompliance with standards issued pursuant to the Architectural Barriers Act, the judge may order all such related cases consolidated and may make such other orders concerning proceedings therein as will be consistent with the objective of securing a just and inexpensive determination of the case without unnecessary delay.

§ 1150.82 PER proceedings.

(a) In proceedings in which a citation, or part thereof, seeking PER has been filed, the judge shall make necessary rulings with respect to time for filing of pleadings, the conduct of the hearing and with respect to all other matters, and shall do all other things necessary to complete the proceeding in the minimum time consistent with the objective of securing an expeditious, just and inexpensive determination of the case. The times for actions set forth in these rules shall be followed unless otherwise ordered by the judge.

(b) Orders of PER shall be on such terms and conditions as the judge directs, consistent with preserving the rights of all parties so as to permit the timely processing of the citation, or part thereof, not requesting PER, as well as the provisions and objectives of the Architectural Barriers Act and the Rehabilitation Act. In issuing an order for PER, the judge shall make specific findings of fact and conclusions of law that the Executive Director or another party, or participant, has shown:

(i) Likelihood of succeeding on the merits of a proceeding; and

(ii) That the threatened injury or violation outweighs the threatened harm to the respondent if PER is granted; and

(iii) Granting PER is in the public interest.

(c) The judge may order dismissed any citation or part thereof seeking PER when the judge finds that the timely processing of a citation not requesting PER will adequately ensure the objective of section 502 of the Rehabilitation Act and that immediate and irreparable noncompliance with the standards issued pursuant to the Architectural Barriers Act is not occurring or about to occur.

Subpart I—The Record

§ 1150.91 Record for decision.

The transcript of testimony, exhibits, and all papers, documents and requests filed in the proceeding, including briefs and proposed findings and conclusions, shall constitute the record for decision.

§ 1150.92 Official transcript.

The A&TBCB will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the judge. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the A&TBCB and the reporter. Upon notice to all parties, the judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

Subpart J—Posthearing Procedures; Decisions

§ 1150.101 Posthearing briefs; proposed findings.

(a) The judge shall fix the terms, including time for filing post-hearing statements of position or briefs, which may contain proposed findings of fact and conclusions of law. The judge may fix a reasonable time for such filing, but such period shall not exceed thirty (30) days from the receipt by the party of the transcript of the hearing.

(b) No briefs or statements shall be required in proceeding seeking PER unless specifically ordered by the judge.

§ 1150.102 Decision.

(a) The judge shall issue a decision within twenty (20) days after the close of the hearing, or within twenty (20) days after the filing of briefs of proposed findings, if required. The decision shall state findings of fact, conclusions of law, and the reasons therefor, upon all material issues of fact or law presented on the record, and may recommend action be taken. The decision shall contain such terms, conditions and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may provide for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(b) In proceedings seeking PER the decision may be given orally at the close of the hearing and shall be made in writing within three (3) days after the hearing.

(c) The findings, conclusion and decision shall be served on all parties and participants to the proceedings.

§ 1150.103 Appeal of decisions.

(a) Within fourteen (14) days after receipt of the judge's decision any party or participant may appeal to the A&TBCB by filing an appeal from the decision with the Chairman. The appeal shall briefly state the reasons for the appeal. The parties and participants shall have ten (10) days from receipt of the appeal to respond.

(b) In proceedings seeking PER, any party or participant may appeal to the A&TBCB by filing an appeal from the decision with the Chairman within four (4) days after receipt of the decision, if written, or four (4) days after announcement of the judge's decision, if oral, whichever occurs first. The appeal shall be responded to by the other parties and participants within four (4) days after receipt of the appeal.

§ 1150.104 Record for final A&TBCB decision.

The record for the A&TBCB's final decision shall consist of the record for the decision, the rulings, and decision of the judge, and the appeals and briefs filed subsequent to the judge's decision.

§ 1150.105 Final A&TBCB decision.

(a) If no appeal to the decision of the judge is filed within the period specified in § 1150.103 above, such decision shall become the final decision of the A&TBCB under section 502 of the Rehabilitation Act.

(b) Upon the filing of an appeal of the judge's decision, the A&TBCB shall review the judge's decision and issue its own decision thereon, which shall constitute the final decision of the A&TBCB under section 502 of the Rehabilitation Act.

(c) The decisions of the A&TBCB shall contain findings of fact, conclusions of law, and the reasons therefor. The decision of the A&TBCB shall contain such terms, conditions, and other provisions as are consistent with, and will effectuate the purposes of the Architectural Barriers Act and the Rehabilitation Act, and may provide for the suspension or withholding of Federal funds with respect to any building found not to be in compliance with the standards issued pursuant to the Architectural Barriers Act.

(d) The decision of the A&TBCB may affirm, modify, set aside, or remand to the judge, in whole or in part, the findings, conclusions and decision of the judge, and shall be based upon the record for the decision.

(e) All final decisions shall be promptly served on all parties and participants. The A&TBCB has the objectives of issuing its decision on any matter hereto within sixty (60) days after filing of an appeal and within a total of one hundred eighty (180) days after the filing of the complaint, or other time period applicable by law.

§ 1150.106 Judicial review.

Action taken pursuant to section 502 of the Rehabilitation Act is subject to judicial review as provided therein. A final order of compliance affecting any

Federal department, agency or instrumentality of the United States shall be final and binding on such department, agency or instrumentality.

Subpart K—Miscellaneous Provisions

§ 1150.111 Ex parte communications.

No person having an interest in such case shall make or cause to be made an ex parte communication to the judge or the A&TBCB with respect to such case. In the event an ex parte communication occurs, the judge or the A&TBCB shall issue such orders and take such action as fairness requires.

§ 1150.112 Post order proceedings.

(a) Any party adversely affected by an order issued by a judge or the A&TBCB may make a motion to the judge or the A&TBCB, whichever issued the order the party seeks to vacate, to have such order vacated upon a showing that the building complies with the standards issued pursuant to the Architectural Barriers Act.

(b) Notice of motion and copies of all pleadings shall be served on all parties and participants to the original proceeding. Responses to the motion to vacate shall be filed within ten (10) days after receipt of the motion unless the judge or the A&TBCB for good cause shown grants additional time to respond.

(c) Oral argument on the motion may be ordered by the judge under such terms as he may direct, consistent with the objective of securing a prompt, just, and inexpensive determination of the motion.

(d) Within ten (10) days after receipt of all answers to the motion, the judge shall issue his decision in accordance with § 1150.102.

(e) The judge's decision shall be subject to finality and reviewable by the A&TBCB in accordance with § 1150.105.

(f) Exceptions to the decision on the motion to vacate shall be filed within three (3) days after receipt of the judge's decision.

(g) By service of an order on all parties and participants, the A&TBCB may remand motions to vacate filed with the A&TBCB to the judge.

(h) Decisions of the judge not appealed to the A&TBCB for decision under § 1150.105 shall be considered decisions of the judge for purposes of this section.

§ 1150.113 Amicable resolution.

(a) Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of the Architectural Barriers Act and Rehabilitation Act.

(b) Agreements to amicably resolve pending proceedings shall be submitted by the parties and shall be accompanied by an appropriate proposed order.

(c) The Executive Director shall be authorized to resolve any proceeding on behalf of the A&TBCB unless otherwise specifically directed by the A&TBCB and may file appropriate stipulations or notices of discontinuance.

§ 1150.114 Conflict of interests.

(a) No member of the A&TBCB shall participate in any decision of the A&TBCB concerning a building in any proceeding to which such member's agency is a party or otherwise participates.

(b) No member of the A&TBCB shall participate in the consideration of an appeal of a matter in which member participated or over which such member presided as a judge, provided, however, the mere designation of a judge by any member or the Chairman or the designation of the Chairman or member as presiding judge shall not be a basis for disqualification from participation in the consideration of any subsequent appeal.

§ 1150.115 Effect of partial invalidity.

If any section, subsection, paragraph, sentence, clause or phrase of these regulations shall be declared invalid for any reason whatever, the remaining portions of these regulations that are severable from the invalid part shall remain in full force and effect. If a part of these regulations is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

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[Short recess.]

Senator Randolph. All right, Dr. Merrill, if you would come forward and introduce your associates.

At the outset I want to say that I remember the excellent testimony given us on February 7 by Dr. William Marshall, director of the Model Secondary School for the Deaf, and by Dr. Robert Davila, director of the Kendall Demonstration Elementary School. Both of these schools are more than proving their worth and we were very gratified to have their reports.

We also want to express our thanks, personally and officially, to you, Dr. Merrill, for providing teachers so that the 51 Senate staffers will have an opportunity to learn sign language, and hopefully to become proficient therein. These are thank you's that are very sincere, not just pleasantries.

We are very happy to have you and your associates testify at this time.

STATEMENT OF EDWARD C. MERRILL, JR., PRESIDENT, GALLAUDET COLLEGE, ACCOMPANIED BY DR. DOIN HICKS, DEAN OF PRECOLLEGE PROGRAMS; DR. THOMAS MAYES, DEAN OF THE CENTER FOR CONTINUING EDUCATION; AND RICHARD PHILLIPS, DEAN OF STUDENTS

Dr. Merrill. Thank you, Mr. Chairman.

I would like to introduce my associates. To my right is Dr. Doin Hicks, who is dean of precollege programs, as such. He is an administrator for both the Model Secondary School for the Deaf and Kendall Demonstration Elementary School.

We have to my far left Dr. Thomas Mayes, who is dean of the Center for Continuing Education, and Richard Phillips, dean of students.

I would like to introduce our interpreters, Mr. Mike Hartman, who is interpreting, and Debra Herb and Sandy Brackett.

Senator Randolph. And I would like to say a thank you to them.

Dr. Merrill. Mr. Chairman, and members of the committee:

Thank you for this opportunity to appear before your committee and to share with you the progress of Gallaudet College of the past several years.

Senator Randolph. Dr. Merrill, is it convenient for you to summarize, rather than to read the complete statement? The complete statement will be made a part of the record.

Dr. Merrill. Yes, I will submit this for the record and summarize it.

Senator Randolph. Thank you.

Dr. Merrill. The testimony which is prepared first describes a new era at Gallaudet College. This started in 1969 and 1970, when the college board appointed a special committee on role and function to examine the needs of deaf people and the role that Gallaudet College should perform. This committee was chaired by the beloved Miss Mary Switzer. She later became a member of the board of directors.

This committee recommended, and I will quote the major recommendation:

> **Gallaudet College, because of its unique history, location, resources and identification with the deaf, should become a multipurpose educational institution. The major goals of Gallaudet College over the next 5–10 years should be to develop instructional, service and research programs which will be aimed at meeting a broader range of educational needs of deaf persons.**

Gallaudet College has pursued this and in the text of the statement the next section is the dimensions of the national commitment in which we described fully the changes in the undergraduate program which have been made, including the international travel, educational travel, exchanges with other institutions, exchanges of students, and participation in the Washington Consortium of Universities.

We also have developed a graduate school so that now we are preparing many more hearing and deaf persons as professionals.

On of the important improvements in the college has been the Center for Continuing Education, which Dean Mayes directs, and this development has reached out to other States.

We have also entered into a number of coopertaive ventures. One of the most productive has been with the George Washington University for the establishment of the National Center for Law and the Deaf, and this is described at length in the statement.

We are working with organizations across the country, such as the National Association of the Deaf, in a series of leadership training programs. Again this is described in the statement at length.

We are doing a great deal more in the area of research through the Sensory Communications Research Laboratory and the Office of Demographic Studies. We are now working with a number of other agencies, including the Ear Research Institute in Los Angeles. These and other developments are described in the statement.

I should like to end by mentioning the future directions of the college. This is important, I think, to all deaf people. It is obvious to all of us that deaf people are still second-class citizens in many respects, particularly in terms of access to programs and services which are available to hearing people. This can be supported by data on limited enrollments of deaf people in postsecondary institutions, as well as information indicating the underemployment of and the lack of on-the-job advancement for deaf people.

We at Gallaudet College are not content with our current level of services to deaf people. We believe that there are still areas of our society which have not been touched, professions that have yet to be opened to deaf people, and ways of achieving fuller participation in our society which have not yet been achieved. As we look to the future, we see an increasing need for the college to develop more cooperative ways of working with other institutions and agencies around the country, not to provide services ourselves, but to build on the base of services available to hearing people so that they may also be made available to our deaf population. We believe that these cooperative arrangements will enable deaf people to realize two and three times greater yield on the Federal investment in Gallaudet College, and we will continue to work in this direction.

As we become increasingly involved with deaf people around the country, and we are beginning to identify areas which require national policy, I would like to take this opportunity to bring before this committee three such areas. We at Galiaudet believe that the Federal

Government should make a concerted effort to stamp out diseases which cause deafness, such as Rubella measles. We certainly have the technology and expertise to launch a national vaccination program which would virtually eliminate Rubella from our society. This would certainly contribute to a diminution of the incidents of deafness throughout the country. We hope that you and your committee will give serious consideration to this very important area.

The Education for All Handicapped Children Act, Public Law 94–142, constitutes a historic commitment of the American people to providing better and more appropriate education for handicapped children and youth. There is increasing evidence that the thrust of the law to provide more appropriate individualized instruction for handicapped children is being interpreted as meaning the placement of handicapped children in local school classrooms whether or not appropriate instruction and other essential services are available. If this trend continues, handicapped children could be the subject of an unbelievable irony; a law designed to improve their educational opportunities could result in the actual diminution of their opportunity to acquire an education equal to that of their hearing peers.

Gallaudet College wholeheartedly supports the concept of a barrier-free environment and of equal employment opportunities for all handicapped people. We applaud the leadership which the Congress is giving in this area, and we have been working with HEW in developing regulations to implement section 504 of the Rehabilitation Act of 1973. However, we believe that this is an area which requires continued support and interest on the part of all concerned with promoting the rights of handicapped people.

In conclusion, Gallaudet College's national heritage, our national and international student body, the outreach of our service programs, and our substantial research programs are but the dimensions of our national commitment. The final test will always be what impact these have on deaf people. Are the services of Gallaudet College making a difference in the lives of deaf people and enabling them to become active and fully participating citizens in the larger society? We believe that the dimensions of Gallaudet's national commitment are indeed contributing to this important national goal.

In conclusion let me say that Gallaudet College would not have been able to grow and develop as a land-grant institution serving deaf people without the help and support of the Federal government and the Congress of the United States. We appreciate your continued interest and enthusiasm for the work of Gallaudet College. Thank you.

Senator RANDOLPH. Thank you, Dr. Merrill.

I am sure your associates will want to comment. I believe I recall that Gallaudet is now 113 years old, is that correct?

Dr. MERRILL: Yes, sir, it is.

Senator RANDOLPH: The only such institution in the world, is that correct?

Dr. MERRILL. Yes, sir, it is.

Senator RANDOLPH. And I believe, also, that Abraham Lincoln actually did sign the charter that established Gallaudet College.

Dr. MERRILL. Abraham Lincoln signed the enabling act on April 8, 1864, before he was assassinated and, of course, this was in the midst of a terrible war, but he had presence of mind to think about and do something important for handicapped people.

Senator RANDOLPH. The State of West Virginia and Gallaudet College have something in common. As you know, we broke away from Virginia and it was the signature of Abraham Lincoln that actually brought into being the State of West Virginia.

Senator Stafford and all the other members of our subcommittee are conscious of the expertise and commitment and compassion of Gallaudet. We know what is being done day by day and of the progress you have made and are continuing to make, and we want to stand alongside of you in this continuing effort.

We are very appreciative of your testimony here today.

Did you want to make a comment? We would be very happy to have all of you participate.

Dr. HICKS. Thank you, Mr. Chairman. You have already heard testimony in February with regard to the two particular programs for which I am responsible. There isn't much that I can say in addition to what was said at that time. I would, however, like to take this opportunity to thank you, Mr. Chairman, and your committee for your wonderful support and to invite you back to visit our programs. We hope to have the dedication of our new model secondary school next October and we certainly hope that you will be a participant with us on that occasion. We do feel that the two model schools at Gallaudet College are beginning to make significant impact in a positive way on the professional education of the deaf, not only through providing good programs for the students we serve directly, but through interaction with the profession at large and through provision of services and programs and materials that we are attempting to share on a nationwide basis, and again we thank this committee and the Congress for their nice support of those programs.

Senator RANDOLPH. What is the date of the dedication ceremony?

Dr. HICKS. We haven't established a specific date yet. Probably in early October, but we will be in touch with you soon about that.

Senator RANDOLPH. I hope that the invitation will include all members of the subcommittee.

Dr. HICKS. It certainly will.

Senator RANDOLPH. And, also, all members of the parent committee.

We would like as many members of our committee as possible to attend. Certainly Senator Stafford and I, if our schedules permit, would want to be a part of that program.

Dr. MERRILL. Mr. Chairman, I would like to call on Dean Mayes, who is deaf himself. He is dean of our Center for Continuing Education. We believe strongly in having an institution that has credibility in the eyes of the people we serve. In order to do that, we have to turn to people who are deaf for leadership, and this man has really put the continuing education program on the map. He is stimulating similar programs across the country, so I would like to have him describe briefly his philosophy of continuing education for deaf and dumb.

Dr. MAYES. Mr. Chairman, the Center for Continuing Education at Gallaudet College is now in its 5th year of operation and we have attempted to capitalize on existing continuing education programs in this country, and in that effort we are working to establish continuing education services in 23 communities from New York to California, from Minnesota to Florida. The main thrust about it is to help the deaf persons function more independently and become more self-assertive citizens, more effective family members and workers.

Although we do not have the exact figures of the number of deaf adults in the United States now participating in adult activities, we believe it is close to 7,000 at this time.

I would be happy to answer any questions, specific or otherwise, that you may have.

Thank you.

Senator Randolph. Was that 7,000?

Dr. Mayes. Yes, sir.

Senator Randolph. Would that figure, Dr. Merrill and Dr. Mayes, indicate that the number has increased progressively?

Dr. Merrill. Yes, I would say this figure would have been more in the hundreds 5 years ago. Now we are seeing around 7,000 deaf adults participating in programs along with hearing people mostly.

The next person I would like to introduce is Dr. Richard Phillips, who is dean of student affairs. We tell him on the campus that he has the easy job: all he has to do is work with all of the students' problems or all of the problems the students have. We have some students here, and I hear them laughing now.

We will call on Dr. Phillips and maybe he will tell us about the pre-major programs.

Dr. Phillips. Mr. Chairman, as you know, our students come from all of the States and foreign countries and find that their backgrounds differ and that we need a common denominator in their experience at the college level. We are planning and working with the undergraduate school to create what we call the pre-major program which anticipates skills and background education that the students have to have before they start college programs, which may be in any one of our 28 different fields of study. We hope at this time to bring together the skills of our staff people and our faculty and the members of the campus into a program which will assist all of these young people to obtain the background information and academic skills and other means to be able to better use their time and their years in college. We find this to be a very exciting approach. We hope to make it a well-rounded program, an approach that will help them to better prepare for college, beyond college level in graduate school or careers. We are working toward a more career-oriented program that will help them to make better use of the major programs later.

We find this to be exciting and we think by next fall we will have some of this moving, and in that we need the support of this committee and in the many other ways you can be of help to us, so we appreciate having had this time. Thank you.

Dr. Merrill. Mr. Chairman, that concludes our statements. I would be very glad to respond to questions. I want to say that we are grateful to your home State, West Virginia, for a new member of the Board of Directors of Gallaudet College. At the meeting this month, the annual meeting, Dr. Philip Sprinkle was elected to membership. He is an otolarynogologist, head of the department of otolarynogology of the medical center of West Virginia University, so we are pleased to have him on our board.

Senator Randolph. Thank you very much.

Senator Stafford might have questions or comments.

Bob, do you want to make a comment?

Senator STAFFORD. Only very briefly, Mr. Chairman, and that is to say in spite of our reorganization in the Senate, we are still plagued with simultaneous meetings of committees and subcommittees, and consequently I missed part of your statement, Doctor, and the earlier witnesses, but I assure you I will read completely the printed statement that is going in the record, and I have nothing but the greatest admiration for the Gallaudet College and all that you are doing.

Senator RANDOLPH. Thank you, Senator Stafford.

Senator Stafford and others of us are so familiar with your program that we are almost neighbors. We keep in closer touch than you might realize with your programs. You build not only an education, but a better education year by year.

Dr. MERRILL. Thank you, sir.

Senator RANDOLPH. Thank you.

[The prepared statement and biographical sketch of Dr. Merrill follow:]

TESTIMONY

SENATE SUB-COMMITTEE ON THE HANDICAPPED
OVERSIGHT HEARINGS

HONORABLE JENNINGS RANDOLPH
CHAIRMAN

STATEMENT OF

EDWARD C. MERRILL, JR.

PRESIDENT
GALLAUDET COLLEGE
WASHINGTON, D.C.

MARCH 22, 1977

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to appear before your committee and to share with you the progress of Gallaudet College of the past several years. Since you and other members of your committee are so well acquainted with the overall mission of the College, I would like to focus our attention this morning on new developments and changes on Kendall Green.

A New Era

First, let me put these changes and developments into some historical context. In 1970, a committee on the Role and Function of Gallaudet College, chaired by Ms. Mary E. Switzer, conducted a thorough study of the state of the institution at that time. As a result of the efforts of this committee, a new mission and challenge was presented to the College. The committee pointed out that thousands of deaf individuals had never been touched by the vast land grant movement which began in the United States in 1864 and brought better education, public services and support to many persons throughout the country. Although deaf people have needs which are far greater than those of the hearing population, there was not a single institution serving deaf people which was in any way characteristic of the land grant college or university. The committee believed that Gallaudet College, the world's only liberal arts college for deaf people, should take on the role of becoming a multi-purpose institution providing the vast array of services required by deaf people through a land grant institution model. While the committee did not intend this new direction to in any way lessen the importance of the undergraduate and professional training programs of Gallaudet College, the committee believed that this new thrust would enrich the program of liberal studies and broaden the outlook not only of the College community, but of its students as well.

The primary recommendation made by the Committee on Role and Function was, "Gallaudet College, because of its unique history, location, resources and identification with the deaf, should become a multi-purpose educational institution. The major goals of Gallaudet College over the next 5-10 years should be to develop instructional, service and research programs which will be aimed at meeting a broader range of educational needs of deaf persons."

Gallaudet College has been able to pursue and to some extent implement this recommendation because of the continued and strong support of this committee and the Congress of the United States. This morning I would like to share with you some of the results of your support and interest.

Dimensions of a National Commitment

Every program and activity of Gallaudet College supports directly or indirectly our goal of meeting the needs of the national deaf community. The undergraduate program serves students from all fifty states and has continued to produce well-educated and independent deaf people who have become leaders in their communities, have pursued successful professional careers and have contributed to the richness and purpose of our society as a whole. At present Gallaudet College and the National Technical Institute for the Deaf are providing educational opportunities for about 50% of the deaf students enrolled in post-secondary institutions.

In recent years the undergraduate program has expanded in many ways to provide our students with new experiences and skills which will help them not only to get jobs but also to be active participants in the mainstream of our society. These new developments have included exchange programs with hearing colleges, such as Oberlin, study abroad programs in France, England and Germany, a program of cooperative education, participation in the Washington Consortium of Universities, and a variety of other off-campus experiences.

Another new dimension in the undergraduate program is an increased number of multiply-handicapped students ranging from those who have a mild case of cerebral palsy to students who are deaf and blind. The College is actively pursuing new ways of meeting the needs of this special population.

The Edward Miner Gallaudet Library which primarily serves the campus undergraduate and graduate schools in the traditional manner is also the world's largest source of information on deafness. This library responds to a steady stream of communications from parents, researchers, local, state and federal government officers seeking information on and assistance in research in the field of deafness.

The graduate school at Gallaudet College now is currently training both deaf and hearing professionals not only in the field of education, but also in the field of audiology and speech, counseling and special education administration. In addition to its regular degree program, the graduate school provides a wide variety of training experiences for professionals in the field of deafness.

The Center for Continuing Education is the spearhead of the College's efforts to meet the national needs of deaf people. This Center has developed and operated a model program of continuing education for deaf adults in the Washington area which is built on the philosophy that continuing education programs for deaf adults should piggyback on existing programs provided through community colleges, public schools and other agencies. Rather than starting all new programs for deaf people, the Center for Continuing Education has worked with other agencies in the Washington area to develop ways in which deaf people can participate in their continuing education offerings through the use of interpreters or instructors skilled in sign language. The Center for Continuing Education is now in the process of working with a variety of communities around the country to help them to use this model in developing continuing education services for deaf adults in their own areas. A few of the communities which are currently working with the Center for Continuing Education include the San Francisco Bay Area, Philadelphia, Seattle and Atlanta.

The most recent effort of the Center for Continuing Education is its work in developing a cooperative agreement with Johnson County Community College for an extension center in Kansas. Once this arrangement is final, Gallaudet College and Johnson County Community College will jointly provide a wider array of services to a regional four-state area in the Midwest. In this way, the resources and skills of Gallaudet College will be able to serve a much greater population through the existing staff and commitment of Johnson County Community College.

In addition to these activities, the Center for Continuing Education has become an unofficial clearing house for educators seeking information on aspects of lifelong learning, has developed an active program of research and curriculum development to provide materials for programs serving deaf adults, has entered into an agreement with the Civil Service Commission to provide nationwide in-service training for hearing impaired federal employees and has moved into the field of community education in order to open up this important new area of development to meeting the needs of deaf people.

In line with the land grant college concept of providing a wide variety of services to the public, our Public Service Programs has moved into many diverse areas, including educating professionals such as doctors, policemen, lawyers and librarians to the special needs of deaf people and ways in which they can meet these needs.

In a cooperative venture with George Washington University, the Public Service Programs has developed the National Center for Law and the Deaf. Legal advocacy has become an important aspect of citizens' efforts to make laws and programs responsive to their needs. The burden of making our system of life work in many areas has been shifted to individual citizens. Participation in the legal process is particularly difficult for deaf people. The Law Center provides an important national service to state associations of deaf people and to many other organizations in identifying problem areas and proposing ways in which deaf people can participate in our legal systems more actively and on an equal level with their hearing peers. In addition, the Law Center in cooperation with George Washington University is working to encourage deaf people to pursue careers in legal professions.

In cooperation with the National Association of the Deaf, Public Service Programs has sponsored a series of leadership training programs at the grassroots level for deaf people around the country. The office combines direct services to the deaf community with a program of educating the general public and specific professionals about the needs of deaf people. In this way, Gallaudet College has begun a trend which is resulting in increased and better services for deaf people nationwide.

Another important aspect of the land grant institution concept is conducting research and applying the results of that research to the betterment of people's lives. The research projects of Gallaudet College are contributing not only to the basic fund of knowledge in the field of deafness, but also to improving the quality of life for deaf people. These research efforts range from the Sensory Communications Research Laboratory which is doing basic research in the field of audiology to the signed English project which provides work books and literature for pre-school age children, which will enable parents to help develop their children's language abilities at home.

The Office of Demographic Studies conducts an annual survey of hearing impaired children and youth. This office has also developed specialized testing materials for deaf children which would otherwise be unavailable from commercial sources due to the lack of a sufficient market for highly specialized materials. In addition to the annual achievement testing, this office also provides related research services, enabling local education programs throughout the nation to have data essential to sound educational programming.

Building on these organized research efforts, the faculty of Gallaudet College is becoming increasingly involved in individual research projects on the learning problems of deaf students. As a result of these projects, many faculty members have developed individualized instructional programs in areas such as psychology and Russian which are specifically tailored to the learning problems of deaf students. Gallaudet College is working increasingly to share these research developments with other institutions and programs around the country.

With the establishment of the International Center on Deafness, Gallaudet College is attempting to coordinate its efforts in international outreach to include the provision of materials and technical assistance to developing countries which are attempting to set up systems of education for deaf children, more training opportunities for professionals in the area of deafness from other countries, and to generally promote an international awareness of the needs and rights of deaf people.

Gallaudet College's national commitment also is demonstrated through the operation of two model schools, the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School. These schools incorporate new experimental teaching techniques, curriculum design approaches and the latest technology in a coordinated effort to improve the level of instruction and achievement of deaf students throughout the country. These schools have worked over the years with a variety of programs, both in state residential schools as well as in public school systems, and are currently in the process of developing a network of more formal relationships with programs serving deaf children to facilitate materials and information exchange, teacher exchanges, and other advances in the field of deaf education. You have already heard testimony from the directors of these two schools.

This accounting of some new developments on Kendall Green provides a general picture of the ways in which the College has responded to the challenge of the Committee on Role and Function to develop along the lines of a land-grant college in order to better meet the needs of deaf people.

Future Directions

It is obvious to all of us that deaf people are still second-class citizens in many respects, particularly in terms of access to programs and services which are available to hearing people. This can be supported by data on limited enrollments of deaf people in post-secondary institutions as well as information indicating the underemployment of and the lack of on-the-job advancement for deaf people.

We at Gallaudet College are not content with our current level of services to deaf people. We believe that there are still areas of our society which have not been touched, professions that have yet to be opened to deaf people, and ways of achieving fuller participation in our society which have not yet been achieved. As we look to the future, we see an increasing need for the College to develop more cooperative ways of working with other institutions and agencies around the country, not to provide services ourselves, but to build on the base of services available to hearing people so that they may also be made available to our deaf population. We believe that these cooperative arrangements will enable deaf people to realize two and three times greater yield on the federal investment in Gallaudet College, and we will continue to work in this direction.

As we become increasingly involved with deaf people around the country, we are beginning to identify areas which require national policy. I would like to take this opportunity to bring before this Committee three such areas. We at Gallaudet believe that the Federal government should make a concerted effort to stamp out diseases which cause deafness such as Rubella Measles. We certainly have the technology and expertise to launch a national vaccination program which would virtually eliminate Rubella from our society. This would certainly contribute to a diminution of the incidents of deafness throughout the country. We hope that you and your Committee will give serious consideration to this very important area.

The Education for All Handicapped Children Act (PL 94-142) constitutes a historic commitment of the American people to providing better and more appropriate education for handicapped children and youth. There is increasing evidence that the thrust of the law to provide more appropriate individualized instruction for handicapped children is being interpreted as meaning the placement of handicapped children in local school classrooms whether or not appropriate instruction and other essential services are available. If this trend continues, handicapped children could be the subject of an unbelievable irony; a law designed to improve their educational opportunities could result in the actual diminution of their opportunity to acquire an education equal to that of their hearing peers.

Gallaudet College wholeheartedly supports the concept of a barrier free environment and of equal employment opportunities for all handicapped people. We applaud the leadership which the Congress is giving in this area, and we have been working with HEW in developing regulations to implement Section 504 of the Rehabilitation Act of 1973. However, we believe that this is an area which requires continued support and interest on the part of all concerned with promoting the rights of handicapped people.

Conclusion

Gallaudet College's national heritage, our national and international student body, the outreach of our service programs and our substantial research programs are but the dimensions of our national commitment. The final test will always be what impact these have on deaf people. Are the services of Gallaudet College making a difference in the lives of deaf people and enabling them to become active and fully participating citizens in the larger society? We believe that the dimensions of Gallaudet's national commitment are indeed contributing to this important national goal.

In conclusion, let me say that Gallaudet College would not have been able to grow and develop as a land-grant institution serving deaf people without the help and support of the Federal government and the Congress of the United States. We appreciate your continued interest and enthusiasm for the work of Gallaudet College. Thank you.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Biographical Sketch

NAME : Edward C. Merrill, Jr.

POSITION : President, Gallaudet College

BIRTHPLACE
AND DATE : Asheville, North Carolina, January 29, 1920

EDUCATION : University of North Carolina, 1942, B. A.
University of Tennessee, 1948, M. S.
George Peabody College for Teachers, 1953, Ph.D.

EXPERIENCE

Present : President, Gallaudet College
1961-1969 : Dean, College of Education, University of Tennessee
1960-1961 : Professor of Education, University of North Carolina
1957-1960 : Associate Dean for Graduate Studies, University of Rochester
1955-1957 : Associate Professor of Education, Auburn University
1953-1955 : Assistant Professor of Education, George Peabody College
1948-1951 : Assistant Principal and Teacher of English, Lee Edwards High School, Asheville, North Carolina
1946-1947 : Instructor in English, Asheville-Biltmore College, Asheville, North Carolina

MILITARY SERVICE : Army of the United States, ETO, W. W. II (Three Years)

ASSOCIATION
MEMBERSHIPS : National Association of Hearing and Speech Agencies
Higher Education Group of Washington, D.C.
Conference of Executives of American Schools for the Deaf
Convention of American Instructors of the Deaf
The Alexander Graham Bell Association for the Deaf
National Association of the Deaf
Professional Rehabilitation Workers with the Adult Deaf
Council of Organizations Serving the Deaf
American Association of School Administrators
Phi Delta Kappa (fraternal society for men in education)
Phi Kappa Phi (society recognizing scholarship)
President's Committee on Employment of the Handicapped

PUBLICATIONS
(Selected) : Administrative Behavior in Education. Campbell and Gregg, eds., "The Individual and Administrative Behavior," co-author of Chapter 9, New York: Harper and Brothers, 1957

Better Teaching in School Administration (editor). Southern States Cooperative Program in Educational Administration, Nashville: McQuiddy Press, 1955

Professional Student Teaching Programs. Danville: Interstate Printers and Publishers, 1967 (revised 1973)

"Dare a Liberal Arts College Serve a Special Purpose?" Liberal Education. Washington, D.C., Vol. LVIII, No. 3, October, 1972

"A Perspective on Higher Education," American Annals of the Deaf. Washington, D.C., Vol. 117, No. 6, December, 1972

Senator **Stafford**. Dr. Frisina, the chairman was speaking about the 113 years of the life of Gallaudet College and of course you are not as old as Gallaudet, but I do remember when we created through an act of Congress this National Technical Institute for the Deaf. I think that was in 1965—is that the date?

Dr. **Frisina**. That is correct.

Senator **Randolph**. I know that Lyndon Johnson signed the bill into law, and I still remember the personal privilege that I had of being in the Rose Garden of the White House at that time.

Dr. Frisina, you are a former dean at Gallaudet, is that correct?

Dr. **Frisina**. That is correct.

Senator **Randolph**. Then I believe you went to Rochester?

Dr. **Frisina**. Yes, sir.

Senator **Randolph**. And you became the director of NTID, the position that you now hold, is that correct?

Dr. **Frisina**. Yes, sir.

Senator **Randolph**. We are very happy to have you. Will you identify your associates for the subcommittee?

We suggest, Senator Stafford and I, that your statement in full be made a part of the printed record, and perhaps your spoken comments could outline for us the substance of your testimony, and your associates could add their contribution.

Dr. Frisina, will you proceed as you desire?

STATEMENT OF ROBERT FRISINA, PH. D., DIRECTOR NATIONAL TECHNICAL INSTITUTE FOR THE DEAF, ROCHESTER, N.Y., ACCOMPANIED BY DR. WILLIAM E. CASTLE, DEAN OF NTID; DEBORAH HELWIG, ALUMNA OF NTID; KEVIN NOLAN, ALUMNUS OF NTID; ROBERT PANARA, PROFESSOR, NTID; JACK SMITH, EXECUTIVE DIRECTOR, WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS; WILLIAM H. WILLIAMS, ASSISTANT TO DIRECTOR, NTID; AND DR. FRANK WITHROW, HEW, LIAISON OFFICER FOR NTID

Dr. **Frisina**. Yes, sir, Mr. Chairman.

In the interest of time, let me just summarize and prior to that I might introduce my colleagues with me today.

At my far right is Mr. Jack Smith, who performed in the role of public information officer at the NTID prior to his coming to the White House Conference as staff director.

Senator **Randolph**. We have had some contacts with him.

Dr. **Frisina**. I suspect you have. He has given me fairly good reports on it.

Next we have Dr. Frank Withrow, from the Department, and, specifically, the Bureau for Education for the Handicapped. He performs in the role of liaison officer between the Department and the Institute in Rochester.

On my right is Mr. William Williams, who is my assistant and has been so since the inception of the program in 1967.

To my left is Dr. William Castle, who has been dean of the Institution from the beginning, and to his left is Prof. Robert Panara. Robert Panara, who is deaf, was a professor at Gallaudet for a number of years and was our first faculty appointment to the Institute. Mr.

Panara was on the ad hoc National Advisory Board for the establishment of NTID. He is internationally known and is a model for the students who study at NTID.

Next to Professor Panara is Miss Deborah Helwig from Chicago. She is an accounting technician at the Continental Illinois National Bank and an alumna of NTID, with an associate degree. To her left is Kevin Nolan, who is an alumnus of NTID, from the College of Business, with a degree in business administration and a master's degree in education of the deaf. He is now in an administrative position with the Beverly School for the Deaf in Massachusetts.

In the interest of time, I will now summarize my opening statement.

Senator RANDOLPH. Dr. Frisina, may I interrupt and say I think you have done an outstanding job in placement of people.

Dr. FRISINA. Thank you, sir.

Pertinent to that issue, I have with me today a recent copy of our *Focus* magazine, which I am going to leave with the committee. This issue concentrates on the whole matter of placement. Other supplementary material I am leaving with you, includes a specific program we have worked out with United States Steel as a model whereby our institution and other institutions seeking employment for deaf and other handicapped persons might use a set of techniques by means of which very healthy relationships with corporate structures can be generated. I will leave that as a part of the testimony. We see placement as a fundamental part of the NTID circumstance. As a matter of fact, the purpose, as you are well aware, for the Institute had to do with the technical preparation of students; particularly following World War II when the technology in our society rose to the high levels that it did. We were concerned, as you recall, with the virtual absence of colleges and universities for deaf students. We had the 100 years of experience with Gallaudet, which served very well. NTID was established to expand the educational opportunities for deaf people across the country. Since the June signing of the bill in 1965, Rochester Institute of Technology was selected as the host institution for the sponsorship of the National Technical Institute for the Deaf.

The history over the past decade has, in my judgment, reinforced the wisdom of the committee that selected that institution because of the nature of the programs offered there. Our young people now have on the order of 160 program choices and these range all the way from engineering to office practice. More specifically, these programs are in the areas of engineering, business, health related sciences, art, applied art, and technical science. As we fan out across those 160 or so programs, another significant point that should be made here is that the young people we have at NTID are precisely those for whom in the wisdom of the group, the Institute was organized; and they are in study programs needed at the moment. These young people range broadly, in terms of their preparation following a secondary experience either in a residential school for the deaf or in a day school program or regular high school for deaf youngsters, all of the way from 8th grade with some 7th grade reading achievement to college-prepared. We are taking a broad range of young people and we have developed a system that works for the purposes intended, the purposes of being prepared for careers.

Senator RANDOLPH. At Gallaudet, of course, they take students from all over the world.

Dr. Frisina. Yes.

Senator Randolph. I believe NTID is restricted to U.S. citizens; am I right?

Dr. Frisina. Primary emphasis on youngsters who are either citizens or who have permanent visas, yes, sir.

Senator Randolph. Any students there from Vermont or West Virginia?

Dr. Frisina. Yes, sir. We weren't prepared for that question because we didn't think you would refer to those States. We have two, Amy Vaughn and Doug Casto, who both come from the Romney School for the Deaf of West Virginia and from Vermont we have nine, two from Chelsea, one from the Governor Baxter School, one from Brattleboro and five from Austine, so you are fairly well represented.

Senator Randolph. I would like to come there some time.

Dr. Frasina. We would be delighted to have you.

Senator Randolph. Maybe Senator Stafford and I could go together.

Dr. Frisina. We would be happy to have you both.

Senator Randolph. I have been excited about the work you have been doing there for a long time.

Dr. Frisina. Perhaps I might talk to Mrs. Forsythe and we could work it out.

Senator Randolph. What was the date now when the act was signed?

Dr. Frisina. It was signed in June of 1965.

Senator Randolph. What was the exact date?

Dr. Frisina. June 8, 1965.

Senator Randolph. All right. You know I love to live with symbols sometimes. I might like to come there on the 12th anniversary of the signing, you know. Would that be this year?

Dr. Frisina. Yes, it is 12 years since the signing, but actually we began to enter students in the fall of 1968, so we will have had a decade of students in the fall of 1978. These youngsters come from virtually every State and, happily, in spite of our limits, our young people are working in 38 States, the District, and in Puerto Rico. We are very pleased with that, indeed.

Senator Randolph. What is the student body number now?

Dr. Frisina. In fiscal 1978 we will have 1,200 individuals during the fiscal year.

Senator Randolph. What was the size of your first class?

Dr. Frisina. 70. As a matter of fact, Mr. Nolan was one of the students in that charter group from the State of Massachusetts.

Senator Stafford. What is the average age of students?

Dr. Frisina. Our average age at entry is 19.5 years. The predominant group is between 18 and 22, although we have no upper age limit.

I think we should focus, too, just very quickly on the sort of things that we will be trying to do next year, to give you a flavor. First, we will be orienting potential students with information that relates to career opportunities. We discovered that young people, and this is true of hearing youngsters as well, are not sure of the career opportunities that exist in this country. Thus, we took on a special effort to orient young deaf people, wherever they are taught and wherever they plan to go, to the whole notion of career opportunities. I am going to leave with the committee this rather extensive packet of information relating to career development for deaf and hard of hearing youngsters.

Another point I would like to make is that, because of the diversity of these youngsters coming from all over the country, we have to develop individualized programs. The myriad of 160-plus programs allows a very significant thing to happen within them. Students may enter and study for a certificate, they may continue for a diploma. If they choose, they may continue for an associate degree. If, in turn, they choose to go on for a baccalaureate, that is also possible, and we have topping off at the graduate level. So we have a diversity of program choices, on the one hand, and we have levels that are appropriate for the varied backgrounds, interests, and abilities of the students.

Senator RANDOLPH. It is truly a career oriented program.

Dr. FRISINA. Absolutely. Our research efforts relate specifically to the development of careers and to the successful placement of our students. We have, on the one hand, the career orientation for the student and we have researched the relation to the economic mainstream of deaf people. We also have a program in staff development which is provided to professionals who contribute to the education of hearing impaired youngsters wherever they are.

Senator RANDOLPH. Dr. Frisina, what is the average cost per student for a year?

Dr. FRISINA. Do you mean charges to the student for attending?

Senator RANDOLPH. Yes.

Dr. FRISINA. Charges to the students are $2,362 per year. That includes tuition, room, board, and fees.

Senator STAFFORD. What is the cost to the institution per year?

Dr. FRISINA. The cost to the institution per year is on the order of $9,600 per year. We operate on a 12-month basis, as you know.

Senator RANDOLPH. I like that. I like a 12-month program.

Dr. FRISINA. We have, since the beginning, operated on a 12-month program and we find it speeds things along.

Senator RANDOLPH. Do IBM and other corporations work with you?

Dr. FRISINA. Yes, we work very closely with IBM. The president of IBM is on our National Advisory Group—Mr. John Opel, whom I am sure you know. I will give you some of the representative job titles. We have a draftswoman from Xerox Corp., an electromechanical technician at Bausch & Lomb; an electrical engineer with the U.S. Navy; a digital development technician at Westinghouse; an accounting clerk for Kodak; computer operator for the U.S. Army, assistant analyst for Goddard Space Flight Center; tax agent for the Internal Revenue Service; printer, IBM; photographer, U.S. Geological Survey; and art teachers at several schools for the deaf. These are examples.

Some of the other companies are Brookhaven National Labs, Otis Elevator, University of California, General Railway Signal, Pratt & Whitney, Texas Instruments, Sandia Laboratory, Ford Motor.

The point I am trying to make is that through some very hard work on the part of many people, these graduates are gravitating and joining national firms and local firms; and they are getting into areas which they were not in prior to the organization of NTID, so we think we are going to help not only our own graduates, but deaf persons everywhere and other handicapped persons in terms of demonstrating how well they can function when provided with technical training. In spite of the economic downturn, Mr. Chairman and Senator Stafford, all we had to do was redouble our effort, but the jobs are there. Our job placement record is in excess of 95 percent. What is crucial for these handicapped youngsters who have educational obstacles to overcome when they finish our programs, is not only their having jobs, but jobs in areas for which they were trained, No. 1, and No. 2, the jobs are at the levels at which they were trained and they are receiving salaries that are competitive with hearing people. The key issue here is access to the economic mainstream and I delighted to be able to report to you after nearly a decade of work that this is actually happening. It is not without its problems; it is not without its challenges with respect to trying to integrate a deaf group of youngsters into a hearing college campus and trying to break down the barriers to employment. These are all happening, but I must say it is resulting from a dedicated staff and some very fine people in the corporate and business community.

Senator **Randolph**. Are you working with our White House Conference?

Dr. **Frisina**. Yes; I have been asked to be a consultant.

Senator **Randolph**. Can we bring some of your people in to assist with our Conference?

Dr. **Frisina**. I might ask Jack. I know of some contact he has had with our people and Jack might be the most appropriate person to react to that.

Mr. **Smith**. We have come a long way, Mr. Chairman and Senator Stafford, since we met in the White House and started the White House Conference and when you so persuaded the President, with great wisdom, to sign Public Law 94–142, which I will always remember as a unique time. Our personal thanks for your support for the Conference, and particularly the Senate subcommittee staff members who have given us ongoing support.

I am here today not because I have to be, but because I believe in what NTID is doing for the lives of deaf young people nationwide. This feeling has been greatly reinforced this year as we have conducted conferences in every State and territory, as the legislation mandated. We were to conduct conferences in every State and territory and the disabled themselves assessed the problems and also solutions to the problems and as we viewed some of them, such as access to information and exposure to careers. I look at NTID and see that it has a strong information dissemination program. Its summer program, as Dr. Frisina referred to earlier, is essential in exposing young people, who have not had the opportunity to understand what career direction means. To participate in that way and in that education designed to meet the needs of industry, is what the handicapped of this country are calling for nationwide. They are also recognizing the need for social development and the importance of involvement in least restrictive environments; and we see how NTID is involved with a hearing institution and how important that is in the personal and social development and in the systematic job placement that Dr.

Frisina referred to as absolutely essential. This is definitely lacking in this country in terms of the handicapped generally.

These are concepts that the handicapped are calling for. I look back now on my experience at NTID and I say they have been pioneering these concepts since 1968 and not only pioneering them, but making them work effectively. I think that to me makes NTID even more a national model that needs to be followed if the handicapped are going to gain what the graduates from NTID gain, that is, independence, dignity as human beings, and full participation in all areas of society. They are not only getting jobs, but they are living and succeeding in communities and that is really what it is all about. I know that is what you called for in the White House Conference and what we should be aiming for. I am pleased not only to be associated with the White House Conference, but referring once again to NTID, my own development and growth, both personally and professionally, is the direct result of what I gained, having worked with NTID. Thank you for permitting me to speak here today.

Dr. **Frisina**. Let me conclude by asking Prof. Robert Panara to say just a word to you, and it is within this context: the most fundamental factor in NTID's success with its graduates is the quality of the teaching-learning process in which the faculty function as models, as teachers, and concerned mentors. The individual that best typifies this role at NTID is its first full professor, Robert Panara, and with that brief introduction, I would like to ask Bob if he would reflect on his experience.

Mr. **Panara**. Thank you.

Mr. Chairman, and members of the committee, as you know I am a graduate of Gallaudet College, my alma mater, and I taught for 18 years there. I think Gallaudet is successful in producing leaders to enter society as Americans. When NTID's program developed, it was my pleasure to be asked to assist there, so I seized upon the opportunity because I thought it offered a means to open new doors of opportunity to deaf persons. Professional deaf persons, like myself, wanted to see the market open up for the employment of the deaf. In other words, to prove deaf persons are capable of entering a world with the hearing, if they have integrated classes of hearing and deaf students.

In your remarks awhile ago you mentioned the fact that Gallaudet College was 113 years old. NTID is now 10 years old and I think that it has lived up to its label. It suits its label to a "T", to the very initials NTID, which is truly accomplishing technological wonders. In 10 years it is amazing what has been accomplished. We are teaching our students to prepare for new careers in technology, in business, in social work, in many diverse areas, which was the intent of the Congress. We have graduated many students and at the same time we have fulfilled the intent of NTID, which was to cover a broad spectrum of the deaf, including those who couldn't function with college level performance, but who could be trained to do work in photo processing, business machines, office practices, and so on.

We give diplomas, certificates, associate degrees, baccalaureate degrees and master degrees. I found that in teaching integrated classes of deaf and hearing students at NTID, we have provided new insight into the teaching/learning process for normal hearing professors.

Right now we have over 20 deaf faculty members functioning at all levels on the campus at NTID. I am pleased to be a part of this wonderful establishment, which is still growing and in many ways has exceeded the original expectations of that first Advisory Committee. This, I can say from first hand experience, having been a member of that committee.

Thank you, Mr. Chairman, for this opportunity to testify in behalf of NTID.

Senator RANDOLPH. Thank you very much.

We are not even going to call on the Dean today. We will let him rest for the moment.

Any materials you would like to provide for our record—statements and comments—we would be very happy to receive them if you feel they would supplement what you, Dr. Frisina, and others have said here today.

We are announcing now that on the 31st of March we will continue subcommittee hearings. That will be our 9th hearing. We are not sure of the room, so we cannot make that announcement at this time.

Any comment, Bob, as we close today's session?

Senator STAFFORD. No, I haven't. Once again I want to say I very much admire what is being done by the witnesses out in front of us.

I do think one of our guests wanted to say something.

Mr. NOLAN. I want to say a few words. I am very happy to be able to come here to be a witness. I want to say something about NTID. The reason I am here is to let you know how much I appreciate what NTID has done for me and I want to thank the Congress for their support for NTID. Thank you.

Senator RANDOLPH. We, the Congress, of course, are appreciative of what you are saying. We will try to continue our commitment.

VOICE. Mr. Chairman, could we hear from the woman? We haven't heard a woman today.

Miss HELWIG (by interpreter): NTID is very important and is very helpful to me because I have a much better job after graduating from NTID, not like I had before when I didn't have the training. I did not have a good job then. Now I can work for promotions. Recently I got a promotion. NTID is very important for deaf students and their future careers.

Senator RANDOLPH. Thank you very much.

Dr. FRISINA. I might point out that 50 percent of our professional people at NTID are women. Actually 54 percent of our professionals are women and 50 percent of our entire staff and in a technical institution that is somewhat unparalleled, I must say.

Senator RANDOLPH. How many are handicapped?

Dr. FRISINA. 13 percent are from what you would call minority groups; 10 percent are handicapped, and 8 percent of the total staff are deaf, so I think we are doing our part, really.

Senator RANDOLPH. Thank you very much, Dr. Frisina, and all of you who appeared before us this morning.

[The prepared statement of Dr. Frisina and additional material subsequently supplied for the record follows:]

TESTIMONY

U. S. SENATE
Subcommittee on the Handicapped
Honorable Jennings Randolph,
Chairman

Statement of
Robert Frisina, Ph.D.,
Director,
National Technical Institute for the Deaf
Rochester Institute of Technology
Rochester, N.Y. 14623
March 22, 1977

List of Witnesses

Dr. Robert Frisina, Director of the National
Technical Institute for the Deaf,
Rochester Institute of Technology

accompanied by

Dr. William E. Castle, Dean of the National
Technical Institute for the Deaf,
Rochester Institute of Technology

Miss Deborah Helwig, alumna of the National
Technical Institute for the Deaf,
Rochester Institute of Technology

Kevin Nolan, alumnus of the National
Technical Institute for the Deaf,
Rochester Institute of Technology

Robert Panara, Professor, National
Technical Institute for the Deaf,
Rochester Institute of Technology

Jack Smith, Executive Director, White House
Conference on Handicapped Individuals

William H. Williams, Assistant to the Director,
National Technical Institute for the Deaf,
Rochester Institute of Technology

Dr. Frank Withrow, HEW Liaison Officer for the
National Technical Institute for the Deaf,
Bureau of Education for the Handicapped

Mr. Chairman and members of the Committee, as Director of the National Technical Institute for the Deaf (NTID), I am pleased to present testimony regarding that Institute on behalf of the Department of Health, Education and Welfare (DHEW) and the Rochester Institute of Technology (RIT).

Public Law 89-36, enabling the creation of the National Technical Institute for the Deaf, was enacted in 1965 because the Congress recognized 1) that postsecondary technical educational opportunities for the nation's deaf population were remarkably inferior to the requirements for participation in an economy based on high technology; and 2) that the vast proportion of the deaf population was restricted in employment opportunities if employed at all. NTID, therefore, is one of those institutions in our nation which was conceived to be dedicated to the achievement of equal educational and employment opportunities for handicapped persons. It is charged to do so by direct service annually to hundreds of young deaf people through its recruitment, counseling, therapy, support service, instructional, and job placement programs, and by indirect service to the entire deaf population and to other handicapped or disadvantaged populations through its research, training, and information dissemination programs.

Experience has borne out once again the realization that deafness from early life is a formidable obstacle to the ready attainment of language, communication and educational progress. NTID accepts a broad range of students who deeply need specialized services; and for them NTID has developed a system of education that works.

The average age of students upon entry to NTID is about 20 years. NTID students are profoundly deaf with an average hearing loss of 95 dB, and 97 percent of these young men and women sustained their deafness at birth or prior to age three years, rendering them prelingually deaf. After an average of 12 years of specialized schooling, necessitated by their deafness, their average academic achievement level upon arrival at NTID approaches that of an elementary school graduate; their overall educational achievement level at entrance is frequently as low as eighth grade with reading levels often below this, but students are also accepted who have achievement levels qualifying them for college level work. The majority of NTID students show a clear lag in personal and social development and nearly all have communication problems that require special support services in order to ready them for successful employment. The presence and marked variability of these deficiencies among students makes it imperative that the educational management of NTID students be accomplished through individualized programming. The detailed manner in which this takes place is herein submitted for the record (TESTIMONY SUPPLEMENT I, NTID Report to the 1976 National Advisory Committee on the Handicapped; and TESTIMONY SUPPLEMENT II, NTID Career Development Model).

Also submitted for the record are the 1976 NTID Annual Report (TESTIMONY SUPPLEMENT III), NTID's 1976 Long Range Planning Introductory Statement (TESTIMONY SUPPLEMENT IV), and a report describing the joint efforts of

NTID and U.S. Steel in successfully placing deaf persons (TESTIMONY SUPPLEMENT V). These documents enunciate NTID's intent to become an important agent, through its role as a national center, in the implementation of the Education of All Handicapped Children Act of 1975 and the Rehabilitation Act Amendments of 1974 by sharing refined components of its career development model with those state agencies, schools for the deaf, local education agencies, and institutions of employment called upon by the Congress in its passage of those two statues.

Reflecting on NTID's charge to be a positive national influence in the successful preparation of our deaf citizenry for employment, it is well to note that we must first become competent at doing the business ourselves before we can have the opportunity to inform and teach others.

The most fundamental and important--although incomplete--manifestation of first-order competence by NTID must be the successful nationwide placement of the deaf persons NTID was designed to serve. These individuals, who were described earlier in this narative, exhibit the characteristics of the population of unemployed and underemployed the Congress sought to assist with the passage of the NTID Act. As graduates of NTID: they are achieving a 95-plus percent placement record; they are assuming occupations within their areas of education and training; they are employed in positions commensurate with their levels of education; they are receiving salaries equal to those of their hearing peers; they are exhibiting stay power in their chosen fields; and they are entering careers heretofore closed to deaf citizens.

There are obviously many efforts that have led to success of this sort, including: the design and construction of a physical facility that accurately reflects special program needs; the systematic development of a combination of support services and technical curricula for the deaf students that result in 163 different career options in the fields of engineering, science, business, visual communications and social sciences; the development of communication and personal/social profiles that enable us to quantify for the first time these seemingly intangible competency areas; the inclusion of a large number of deaf students in a publicly-supported institute into a private institution for hearing students; and the record of continued support by the Department of Health, Education and Welfare, the Office of Management and Budget, and the Congress.

The knowledge and competency acquired by NTID in accomplishing these and other tasks are now being disseminated to a host of appropriate national publics in preparation for its ongoing functioning in this capacity as fully operational status is achieved.

In the decade since the enactment of P.L. 89-36, NTID has been in direct contact with all public and private residential schools for the deaf, all state departments of education, all state vocational rehabilitation agencies, all public and private day schools having classes and other services for deaf children, all rehabilitation facilities offering services for the deaf, and a broad number of other publics and individuals throughout the 50 states, the District of Columbia and Puerto Rico.

In FY78, NTID will be fully operational; that is, NTID will be functioning at its designed capacity as a national center in:

1. orienting potential students and their parents, teachers, therapists, and counselors to the broad range of career opportunities for deaf persons at NTID and elsewhere throughout the United States;
2. admitting new students each year on a nationwide scale;
3. preparing, implementing, and evaluating individualized educational programs for these students such that they are exposed to a broad array of majors from which to choose and five different competency levels ranging from certificate, diploma, associate, bachelor through master degrees;
4. providing an environment in which gradual, planned exposure to the hearing world of working and living is presented to 1,200 deaf students each year, while simultaneously providing to several thousand hearing students knowledge of deafness and experience with deaf people each year;
5. developing, in NTID's graduates, the personal-social and communications competencies, in concert with the technical component, so critical in job stability and mobility;
6. attaining employment for graduates in positions commensurate with their areas and levels of education and at salaries equivalent to their hearing peers;

7. training 1,700 graduate professionals from throughout the nation annually by means of internships, workshops, courses and seminars--involving each year: 400 in extensions of NTID's educational practices and research; 1,000 in sign language programs; 100 in interpreter training; and 200 in graduate intern and staff training;
8. conducting 90 ongoing research projects and reporting out annually the results of some 40 projects covering applied research into the economic, educational, communications, and personal-social attainments of deaf people, including evaluation of teaching techniques as these relate to the educational goals of deaf students wherever taught; and
9. disseminating information annually to an estimated 4.5 million individuals throughout the nation by way of booklets such as the NTID Focus, news releases, catalogs, newsletters, films, TV spot announcements, on-site presentations, and direct contact.

NTID's impact can be demonstrated in other ways which are less statistical but just as significant.

1. New vistas for meaningful employment have been created.

    a. Before NTID was established deaf persons who held bachelor's degrees in engineering numbered about half a dozen; through NTID that number has been quadrupled.
    b. Before NTID was established the number of deaf persons trained in medical technology were fewer than five; today that number has increased tenfold.
    c. Representative job titles and agencies in which NTID graduates have been placed include draftswoman for Xerox Corporation, electromechanical technician for Bausch & Lomb, electrical engineer for the U.S. Navy, digital development technician for Westinghouse, accounting clerk for Kodak, computer operator for the U.S. Army, systems analyst for Goddard Space Flight Center, tax agent for the Internal Revenue Service, photofinishing and quality control technician for Polaroid, printer for IBM, lithographer for U.S. Geological Survey, art teacher at a school for the deaf. (Miss Helwig, who is with us today, is an accounting technician at Continental Illinois National Bank in Chicago.)

d. A number of NTID graduates have entered advanced programs of study elsewhere; including one of our baccalaureate graduates who recently passed his bar examination after completing law school at DePaul University and Mr. Nolan (also here with us today), who completed a bachelor's degree in business while at NTID, went on to get a master's degree in deaf education and is now serving in a management role at the Beverly School for the Deaf in Beverly, Massachussetts.

e. In contrast to career paths which in essence limited deaf graduates to special education or to printing trades, 85 percent of NTID graduates are broadly distributed in business and industrial settings with 10 percent in education and 5 percent in government.

2. NTID students are experiencing the hearing world by working and living in ways planned to ensure success on a wholesome, positive basis.

a. NTID's 1,000 deaf students intermingle during any given daytime period with 5,500 hearing students in and out of classes and during any evening period with 3,000 hearing students who live within the same residence complexes.

b. Deaf students participate actively with hearing students in the affairs of student government, in varsity and intramural sports and in fraternities and sororities.

- c. NTID students became acquainted with the work setting by being part of it through cooperative work experience; a joint venture between NTID and employers.
- d. NTID students learn responsible citizenship as members of a community through voluntary participation in the Rochester area in unpaid positions of service.

3. New thrusts in applied research at NTID are broadening horizons, as typified by selected report titles.

- a. "Telephone training for selected deaf students."
- b. "Personalized systems of instruction as a supplement to college classroom lecture instruction."
- c. "A national survey of career development programs in residential schools for the deaf."
- d. "Perceptions of educators of the deaf toward career education goals for secondary level deaf students."
- e. "Job related speech and language training."
- f. "Communication in industry: implications for the deaf worker."
- g. "Individualization of instruction."
- h. "Attitudes of hearing students toward deafness on a deaf-hearing campus."
- i. "Assessment of reading and writing skills in an adult deaf population."

j. "A notetaking procedure for deaf students in hearing classes."

4. In addition to the graduate training of professionals who come to NTID for that activity, the NTID faculty and staff constitute a major category of students who often leave NTID to apply their training in other environments.

   a. A deaf professional, who was NTID's first coordinator of counseling, is now at the University of Arizona directing a demonstration project dealing with multiply handicapped deaf.
   b. Another deaf professional who was the first director of NTID's technical education programs, is now leading the program of developmental education at the Model Secondary School for the Deaf.
   c. Perhaps a most noteworthy example for review in this testimony would include Mr. Jack Smith, who served NTID as an assistant dean for educational extension before assuming his current role as executive director of the White House Conference on Handicapped Individuals. (Mr. Smith is with us today.)

The activities just summarized are accomplished for the most part through the energetic and enthusiastic staff (led by such examples as Professor Panara who is with us today) attracted to NTID over the last eight years, fifty percent of whom are women, thirteen percent of whom are from one of the legally described minority groups in our nation's population, ten percent of whom are physically handicapped, and eight percent of whom are deaf.

In greater fulfillment of our total charge regarding the handicapped we expect that the next two decades will witness further productivity in those NTID activities which we refer to as educational extension. Already we have shared widely the results of our research and we have tested, in other educational environments, the usefulness of NTID-designed learning modules in mathematics and the NTID communications profile for younger deaf and other handicapped students. Our long term national interest is in helping postsecondary programs, secondary schools, and elementary schools offering programs for the deaf or other handicapped or disadvantaged students to capitalize on the research findings we develop; evaluation, diagnostic, and other assessment tools we design; the techniques we have found useful for individualizing instructional programs; and the special programs we have initiated for career development, effective job placement, and for fostering interaction between the handicapped and the non-handicapped.

The most fundamental factor in NTID's success with its graduates is the quality of the teaching/learning process in which the faculty function as models and examples -- teachers as concerned mentors. The individual who best typifies this role at NTID is its first full professor, Mr. Robert Panara. Mr. Panara also serves as an exemplary model for NTID students to emulate.

Mr. Chairman, and members of this Committee, thank you for allowing me to speak on behalf of this program and the people it represents.

BIOGRAPHY

D. ROBERT FRISINA

Birthdate: February 14, 1925

Place of Birth: Westline, Pennsylvania

Soc. Sec. Number 195-14-1389

Marital Status: Married

Children: Five

EDUCATIONAL HISTORY	Degree	Year	Major	Minor
Bradford High School (Pa.)	H.S.	1943		
Westminster College (Mo.)	B.A.	1949	Biology	Psych. & Ed.
Gallaudet College	M.A.	1950	Ed. of Deaf	
Northwestern University	Ph.D.	1955	Audiology	Psych.

MILITARY SERVICE

United States Army Air Corps (Pilot) 1943-46

PROFESSIONAL EXPERIENCE

Missouri School for the Deaf, Fulton, Missouri:
Supervisor, 1947-49; Instructor, 1950-51

Kendall School for the Deaf, Washington, D.C.:
Instructor, 1951-52

Northwestern University, Evanston, Illinois:
Graduate Assistant, Children's Hearing and Aphasia Clinic, 1952-55; Chief Clinician, Children's Hearing and Aphasia Clinic, 1953-55; Assistant Professor of Audiology, 1955-56; Chief Clinician and Research Associate, Institute for Language Disorders in Children, 1955-56

Gallaudet College, Washington, D.C.:
Instructor, 1951-52; Professor Audiology, 1956-67; Director, Hearing and Speech Center, 1956-1967; UNESCO Expert: Special Assignment to Department of Education, Hong Kong, November 1962-January 1963; Dean, Graduate School, 1964-1967

Rochester Institute of Technology, Rochester, New York:
Senior Vice President, 1977-
Vice President, 1967-77
Director, Nacional Technical Institute for the Deaf, 1967-
Chairman, Institutioral Advancement Commission, 1975-

SOCIETY MEMBERSHIPS

Alexander Graham Bell Association for the Deaf

American Organization for Education of the Hearing Impaired

American Speech and Hearing Association (Fellow 1966)

Conference of Executives of American Schools for the Deaf

Convention of American Instructors of the Deaf

Cosmos Club of Washington, D.C.

Council for Exceptional Children

Council on Education of the Deaf

CURRENT BOARD MEMBERSHIPS

Board of Directors, Alexander Graham Bell Association for the Deaf, Inc., Washington, D.C.

Board of Directors, Conference of Executives of American Schools for the Deaf

Board of Directors, Frank Gannett Newspapercarrier Scholarships, Inc., Rochester, N.Y.

Board of Directors, Highland Hospital, Rochester, N.Y.

Board of Directors, Rochester School for the Deaf, Rochester, N.Y.

Regents Advisory Board, New York State School for the Deaf, Rome, N.Y.

COMMITTEE SERVICE AND CONSULTANTSHIPS

Alexander Graham Bell Association for the Deaf, Inc.; Executive Committee, Planning Committee (Chairman)

Conference of Executives of American Schools for the Deaf; Treasurer.
Also member of Executive Committee, Higher Education Committee, Committee to Redefine Deaf and Hard of Hearing for Educational Purposes (Chairman), Committee on Legislation

Commission on Social Development of Deaf People, VIIth World Congress of the Deaf

Council on Education of the Deaf; Executive Committee

Highland Hospital, Rochester: Vice President; Ad Hoc Committee on Group Practice; Nursing Education Committee (Chairman)

COMMITTEE SERVICE AND CONSULTANTSHIPS (cont'd.)

United States Office of Education

United States Social and Rehabilitation Service

White House Conference on Handicapped Individuals, Advisory Committee

New York State Conference on the Handicapped, Steering Committee

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Major Industry at Work with Deaf College Students

A Perspective on National Technical Institute for the Deaf Students Employed by the United States Steel Corporation

Prepared By

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October, 1976

This report was completed in the course of an agreement between the National Technical Institute for the Deaf (NTID) and the Department of Health, Education and Welfare (HEW), but does not necessarily represent the official opinions or policies of HEW or NTID or USS. The assistance of the following persons is greatly appreciated: Richard Holan, Manager of Administrative Services, United States Steel Corporation; and Victor Maguran, Dick Elliott, Janice Lockhart, and Mary Iuppa of the NTID/RIT staff.

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INTRODUCTION

Since January, 1975 representatives of the Department for Career Opportunities of the National Technical Institute for the Deaf and the United States Steel Corporation have worked closely together to help ensure the successful placement of NTID students at USS. This involvement with USS has been one of NTID's most extensive and comprehensive contacts with a major corporation. A great deal of mutual preparation and information sharing has transpired between NTID and USS. Through these interactions, much has been learned by both organizations about the employment of deaf persons. This has been a significant undertaking that should assist NTID in its continuing work with USS as well as with other corporations. With this intention in mind, this report has been prepared.

At the present time, seven NTID students have worked in cooperative-education employment situations at several divisions of USS in Pittsburgh. This report will examine some of the activities which took place in order to effect these placements. Attention will be given to aspects of the technical, communication, and personal/social dimensions of the employment of NTID students and their impact on the student, the employer, and NTID/RIT staff.

AUDIENCE

Since this report is intended primarily for internal use by DCO and NTID in the interest of evaluating, improving, and refining their training and placement procedures, much detail has been included here to assist them in these efforts. However, it is also probable that this report can be useful to USS, other major corporations, and other groups interested in the employment of NTID students and other deaf persons. With this consideration in mind, some attempt has also been made to include input that will make this report meaningful to these external groups.

BACKGROUND

To view the establishment of the relationship between NTID & USS in better perspective, it would be helpful to understand some of the reasons why the placement function at NTID requires a unique effort and special kind of attention.

In many college institutions, there is often a well-established relationship between the placement department and the corporations that recruit its students. This is particularly true of technical institutes where large numbers of students are trained in fields like engineering and business which are frequently high on the list of marketable skills sought by employers. However, considering today's spiraling technological advances and changing job markets and their impact on evolving and newly-emerging post-secondary technical programs, it is highly likely that college placement departments will no longer be able to take for granted these old corporate ties. Increasing academic, student, corporate, and even government accountability will require and demand a new focus on the placement function by educators as well as employers.

This new focus and increased emphasis on placement is especially true at NTID, which in addition to being a relatively new college, is training a special group of students in new career areas previously available to only a very limited number of deaf persons. Employment representatives working with NTID need to become acquainted not only with a new institution of higher education and new technical career programs; but, perhaps even more important, they need to become familiar with the handicap of deafness--a handicap characterized by a long history of unemployment and underemployment and a handicap about which most employers know very little.

A great deal of mutual preparation and information sharing is required in order to overcome typical employer misconceptions, misunderstandings, and negative biases often associated with the employment of the deaf. This is a particularly challenging task, if one considers that many deaf students at NTID are being trained for jobs in occupations previously available to only a very few deaf persons. At the same time, NTID placement representatives need to become familiar with changing job requirements and environments in order to facilitate the employment of deaf students in those areas which most appropriately match their training as well as the expectations of the employer. In turn, feedback from placement and employment representatives is helpful to the NTID academic departments, enabling them to keep abreast of the most recent changes in their respective career areas.

HISTORY

Throughout the interactions between USS & NTID, careful attention was given to these multi-dimensional aspects of the placement process. Before USS made any commitment to the hiring of NTID students, a series of meetings between a number of NTID and USS representatives took place both on the NTID campus and at USS facilities. The USS representatives (see Figure 1) included representatives from the areas of personnel services and college relations as well as line management representatives from the areas of engineering and research, data processing, and finance (areas likely to offer potential employment opportunities to NTID candidates). The NTID representatives (see Figure 2) included a placement coordinator and deaf-engineer academic adviser as well as management representatives from the educational program's staff including business technologies, engineering technologies, and placement (areas likely to be training and working with students who would be potential employment prospects for USS).

During this orientation period, USS representatives became acquainted with NTID's philosophy, goals, and programs (see Attachment A). They toured NTID, visited classrooms and laboratories, and spoke with a cross-section of NTID faculty, staff, and students.

At one point, early in the orientation period, USS recruiters interviewed several NTID students. The purpose of these interviews was to give the recruiters a communication experience with a number of deaf students and to give them an opportunity to assess the NTID students' potential for technician-level and professional-level jobs at USS.

Figure 1

USS Representatives Working with NTID

D. R. Curran, Manager, Personnel Services - Finance
Anthony Del Signore, General Supervisor, Control and Data Preparation
Michael Delich
Frank A. Dlugonski, Administrator - Personnel & Training, Research
John Frey, Coordinator of College Relations
Robert Haladey, Manager, Construction Engineering
Ernest Helms, Superintendent of Personnel Services
Richard Holan, Manager, Administrative Services - Engineering & Research
Albert Krutak, General Supervisor - Drafting, Design Engineering
Thomas Litras, Division Chief - Administrative Services, Research
C. D. Rogers, Senior Research Engineer - Systems Engineering
W. J. Rowles, Regional Engineering Manager
Thomas Schuerger, Division Chief - Electrical Systems
J. J. Trageser, Supervisor - Engineering, American Bridge
Robert Zucco, General Manager - Data Processing & Services

Figure 2

NTID/RIT Staff Working With USS

Milo Bishop, Assistant Dean - Career Development Programs
Rosemary Kurtz Britt, Employment Development Specialist
Jack Clarcq, Associate Dean - Technical Assistance Programs
Dick Delmonte, Director - Central Placement Services
Dick Elliott, Career Counselor
Tony Finks, Employment Development Specialist
Rich Giandana, Coordinator - Employment Development
Warren Goldmann, Associate Educational Specialist
Mary Iuppa, Placement Counselor
Janice Lockhart, Employment Opportunities Specialist
Vic Maguran, Director - Department of Career Opportunities
Ed Maruggi, Chairman - Engineering Technologies
Joe Panko, Chairman - Business Technologies

To evaluate USS job environments that could offer employment potential for NTID students, NTID representatives toured several occupational areas at USS, including steel mills, repair and maintenance shops, machine shops, accounting offices, design and drafting areas, and data processing centers. From this first-hand view of the job environment, along with their understanding of deafness, they were able to identify several jobs that could offer compatible and successful employment experiences for NTID students. (See Attachment B.)

At this time, USS personnel opted to hire NTID students on a cooperative education basis rather than as permanent employees for several reasons. When USS was ready to place NTID students in USS jobs, there were no NTID graduates immediately available for employment in the Pittsburgh area. In addition, it was felt that the co-op arrangement would provide USS personnel a better opportunity to acclimate themselves to the handicap of deafness. The flexibility of the co-op arrangement would also give them an opportunity to more closely assess the performance of the students, allowing for more appropriate job matching and promotion opportunities if and when permanent hiring takes place.

Continuing communication between USS and NTID eventually resulted in the selection of the following areas as cooperative job-sites for NTID students: drafting and design, engineering research, data processing, and accounting.

All of this information was shared through USS executive channels, and a high-level administrative decision[1] from the Chairman of the Board at USS approved several cooperative-employment job slots for NTID candidates.

In addition to involving USS executive and management levels in the orientation process, NTID representatives also shared the NTID message with the supervisors of those areas that eventually hired NTID co-ops. It was felt that this was especially important because these persons would be working with the students on a daily and continuing basis.

Thus far, all seven NTID students (see Figure 3) who were referred to USS for personal interviews have been employed in a co-op job suited to their degree programs. The five baccalaureate-level students enrolled in RIT's Bachelor of Engineering Technology and Computer Science programs are working on 3-month rotating blocks (3 months in school and 3 months on the job), over a three-year period prior to graduation. The two AAS-level students from NTID's Office Practice and Procedures Program were employed on a one-time basis following the first year of their programs.

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[1] This was a significant step which will be looked at in more detail in a later section of this report. (Corporate Acceptance - p. 12)

Figure 3

NTID/RIT Students Working at USS

	NTID Program	USS Department/Division
Suzanne Lemanski	AAS, Office Practice	Data Processing & Services
Karen Park	AAS, Office Practice	Data Processing & Services
Paul Mente	BET, Electrical Technology	Regional Engineering
Eugene Rusiecki	BET, Electrical Technology	Systems Engineering-Research
John Shaver	BET, Electrical Technology	Systems Engineering-Research
Bob Wallace	BT, Computer Systems	Data Processing & Services
Bob Liese	BS, Accounting	Data Processing & Services

In addition to providing salaries for these students[2], USS paid travel expenses for all of the students' interviews conducted at USS facilities[3]. In the case of the students who were relocating to the Pittsburgh area, USS personnel helped them find housing. Information about deaf-oriented agencies in the Pittsburgh area provided by NTID to USS also facilitated the students' relocations. (See Attachment C.)

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[2] These salaries were standard co-op rates for USS co-ops. Specifically, the baccalaureate-level engineering technologies students were paid according to the following monthly schedule: 1st co-op block, $815; 2nd, $855; 3rd, $895; 4th, $935, and 5th, $980.

[3] This varies from company to company; many companies pay interview expenses when they are considering a baccalaureate-level student for permanent employment, but only a few companies pay interview expenses for coop candidates and AAS-level students.

To develop a resource of job development information and to assess the reactions of the persons involved in this USS-NTID placement experience, an NTID representative[4] interviewed many of them in a group meeting approximately six months after the first student began employment at USS. USS employers, NTID staff, and NTID/USS co-op students[5] were questioned about their impressions of the orientation process, their reactions to the actual employment experience, and their suggestions for improving the interactions between NTID and USS. (Questions used as the basis for discussion in this group interview appear in Attachment D). The results of these discussions and related recommendations follow. The recommendations are based on their actual comments as well as on the observations and conclusions reached by the NTID interviewer.

---

[4] Rosemary Kurtz Britt, NTID Employment Development Specialist

[5] Eugene Rusiecki and Paul Mente

CONCERNS OF EMPLOYERS

Communications, Safety, Union Jobs, Upward Mobility

Prior to the selection of appropriate job-sites for NTID candidates, USS employers expressed several common concerns which centered primarily around the problems of safety, communications, upward mobility, and unionized jobs.

After consultation with NTID staff, USS eliminated certain jobs that would not be appropriate for most deaf employees because of these considerations. At the same time, they were also able to identify a number of jobs that did not involve safety hazards and heavy telephone and other communication demands which would offer appropriate employment opportunities for the deaf.

Unionized jobs were eliminated not because union membership itself was a barrier to deaf persons, but because there was concern that the restrictive entry level contractual requirements for promotion in unionized jobs might influence a deaf person's upward mobility--a factor that might discourage a deaf person who had received specialized training at NTID which would probably qualify him for a higher-level job.

Because communication skill requirements generally increase with job advancement, upward mobility for the deaf employee was and is still a concern. Since relatively few deaf persons have previously had professional-level opportunities, this issue of mobility will probably be answered only by time and experience. For the most part, in addition to the availability of job opportunities, it will depend on the interaction of two major factors: the deaf employee and his or her employer. Each deaf person brings with him to the job a unique set of characteristics in terms of communication and technical abilities, motivation, and flexibility which will have an impact on his progress through the organization. In turn, the reaction of the employer to the deaf employee's job performance and his open-mindedness will also greatly influence promotion opportunities for the deaf employee.

Corporate Acceptance

USS personnel were sensitive to the need for employer acceptance and attempted to generate greater understanding and enthusiasm for the NTID program in several ways. The involvement of higher-level executive and management personnel in the decision to hire NTID students was a critical step in helping to promote a workable commitment to the NTID coop program. Not only did it help to ensure the continuity of USS's commitment to NTID, but it also allowed USS personnel greater flexibility in their management of the co-op arrangement. This flexibility is especially important because it allows, for example, for such things as a sharing of co-op students between USS departments and a better potential for appropriate job matching. Consequently, there was increased interaction among all the USS personnel involved with NTID students which helped to develop an internal employer support group. The support which this group generated assisted the employers in overcoming many of their concerns and doubts about hiring a special group of students. All of these activities should help to give the student a better chance for job success.

Interviewing a Deaf Person

It is one thing to be prepared for interviewing a deaf person; it is another thing for the employer to actually experience the interview.

The USS employers who did eventually interview NTID students had these things to say about their experiences:

1. All agreed that their visit to NTID and the orientation provided by NTID about deafness, communication abilities of the deaf, and information on NTID's technical programs helped a great deal in preparing them for the actual interview.
2. Although many of them were apprehensive in going into the initial interviews, they found that the interviews were not as difficult as they had anticipated. As they became more accustomed to talking to several deaf people, they found that they could more readily understand their speech, that the interviews went more smoothly, and that they were very satisfied with their progress and accomplishment by the end of the interviewing day.
3. They experienced a variety of communicative abilities among the NTID students that seemed to have no relationship to their technical program. Some students' speech was easily understood and they lipread well, and for them the recruiter used normal verbal communication. For other students whose speech was sometimes difficult to understand and who seemed to have difficulty understanding the interviewer, the recruiter used a combination of both verbal and written communication. The recruiters indicated that these "in-between" students were the most difficult ones to interview, probably because the recruiter could not always be sure of the most appropriate kind of communication and had to continually test out and shift his communication mode. Finding the best way to communicate with these kinds of students can be a difficult task in the relatively short time-frame of the typical interview.

4. One recruiter mentioned that he found it especially helpful when one of the students helped to put him at ease by telling him that she understood him very well.

5. Several recruiters mentioned that they felt that interfacing with a deaf student improved their own general ability to communicate and that they were learning to communicate on a new level. For example, they became more conscious of wording their questions more carefully and of listening more acutely to the applicant. They became more aware of non-verbal clues and learned to communicate better non-verbally themselves.

6. Most indicated that the interview time should be lengthened from the typical half-hour campus interviews used with hearing students. This would be helpful because of the adjustments that the recruiter and deaf interviewee must make in communicating with each other, and also because the frequent need for writing requires more time.

THE EMPLOYMENT EXPERIENCE

Co-op Arrangement

Because of USS's economic cutbacks during the late sixties, their previous co-op commitments with other schools have been discontinued. While USS is beginning now to consider opening up new co-op possibilities with other schools, their only formal co-op arrangement at the present time is the one with NTID. From USS's perspective and previous experiences with co-op arrangements, their experience with NTID students has, with only a few accommodations due to the deafness factor, been similar to their other co-op programs with hearing co-op students.

USS's typical co-op programs with any college generally include some of the following features:

1. Salaries are determined on the basis of the nature of the job and the academic background of the student. For example, a third-year college student would receive a higher starting salary than a second-year student.
2. Increases in co-op salaries are given after a student completes an academic year.
3. In terms of benefits, the students are treated like temporary employees. Consequently, their vacation, sickpay, and insurance benefits are the same as those of a temporary employee.
4. At U.S. Steel, when the student finishes a co-op period after having completed his third year of school, he is put on leave-of-absence status. For the employee, this leave-of-absence status has several advantages: 1) time spent in co-op employment adds to their longevity on the job, thus increasing salary and other benefits more quickly than if they had to be rehired each co-op block; and, 2) it gives them preferential treatment in terms of permanent hiring. (See Attachment E for a copy of the Leave-of-Absence Form.)

Some of the co-op features which were different for the USS/NTID experience include the following:

1. Prior to the actual hiring of NTID students, USS personnel spent a great deal of time in learning about NTID programs and the handicap of deafness. This was essential preparation in enabling them to select appropriate USS jobs for the students.
2. More USS personnel than usual were involved in establishing this relationship with NTID. As mentioned previously, this helped to generate better acceptance for the NTID students and to establish a better foundation for a successful employment experience.

Employer Reactions[6]

USS representatives appreciated several aspects of the orientation which was provided by NTID staff. In some of their previous experiences with deaf employees at USS, they had had difficulties in assimilating them into the working environment. NTID's willingness to work with USS prior to NTID's students' employment helped a great deal to smooth the way for acceptance of the deaf employee and saved everyone a good deal of frustration. They were impressed with NTID's awareness of the working world and sensitivity to the needs of the employer. Although USS actively searches for employment outreach programs, they appreciated the fact that NTID personnel stressed the ways that NTID's technically trained students could help them meet USS employment needs.

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[6] At the time of gathering the information for this report, only two NTID students had completed their co-op blocks with USS. Therefore, information gathered about the USS employer's reactions to working with NTID students will pertain only to these two students. However, NTID has received a lot of other feedback about students' work performances at other companies which is very similar to the reports from USS personnel.

The supervisors of these students indicated that they began the employment situation feeling very well prepared, although they still had some apprehensions about the new experience of working with deaf employees. After only a few days on the job, they realized that the students just wanted to be treated like any other employees. Communication did not present any problems. From the beginning, both students understood their coworkers, and after only a few days their fellow employees could understand them with almost no difficulties. The supervisors felt that the fact that the deaf employees were not distracted by surrounding noises was a real asset in increasing work performance. In the case of one of the students, USS was concerned that they had placed him in a job that wasn't the best technical fit, but he was able to learn very quickly. USS felt that this was evidence of his good basic training and ability to adapt.

One of the disappointments in USS's relationship with NTID has been a gap in the availability of students. USS would like to see more continuity in filling their available openings and could presently employ at least eight NTID students in the course of a calendar year. However, considering that NTID is placing students nationwide, the fact that 7 coop students have been placed with one major corporation within a nine month period is a positive indicator from NTID's standpoint. On the other hand, it would be helpful if information from NTID's placement forecasting process could have provided USS with a better expectation of student availability so as to avoid this disappointment.

Student Reactions

Both students (see footnote[6], page 16) were very pleased with their experiences at USS. They had a variety of tasks to perform which related to their NTID/RIT training and indicated that the USS work was challenging and never boring. One of the students had some problems with background noise coming from some of the specialized equipment in his work area, but he was able to turn down the volume on his hearing aid to block out the noise.[7] (This is an advantage that a hearing employee might not have.) He observed his supervisors closely in order to learn how to operate certain types of equipment; or, if he was concerned about the safety aspects, he asked his supervisor to demonstrate. One of the students, whose speech was more difficult to understand, felt that his boss knew how to communicate with him, but indicated that perhaps his fellow employees could benefit from tips on how to communicate with a deaf person.

At first, one of the students had some concern that he got the job because he was filling an affirmative-action slot; but after a short time on the job, he was convinced that USS was making good use of his technical expertise and was satisfied that he was not there to fill any imagined quota requirements. So that USS could continue to make good use of his technical background, he suggested that it might be helpful to inform USS of his academic coursework each co-op block.

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[7] About 90% of the NTID students have some hearing and wear hearing aids to help amplify the sounds which they can hear.

He also expressed disappointment over the fact that his placement counselor had not received a co-op report from his supervisor. Typically, a report form is sent by the co-op placement counselor to the employer each co-op period. The information from these reports provides valuable and immediate feedback to the student, counselor, and academic department and also serves as a resource of company information for use with future students. Since the NTID student reporting system is undergoing major revision and to avoid inundating USS with more paperwork, it was decided that no co-op reports would be sent to USS. However, because of both the students' and counselors' need to receive this type of input, it might be helpful to develop some kind of interim employer reporting system at this time. Perhaps some joint system could be developed that would incorporate a flow of academic feedback to the employer as well as employment feedback to the student and counselor.

There was some confusion on the students' part about the leave of absence procedure because they thought that signing the leave of absence form meant that they were committing themselves to permanent employment with USS.[8] This required further explanation from their NTID/RIT placement counselor when they returned to school. It is not unusual for deaf persons to have difficulty in understanding some of the subtleties associated with a job. The employer and the counselor can help by recognizing this and by taking more time than usual to explain some procedures which might be unfamiliar to a deaf person.

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[8] In no co-op situation are the employer or student ever expected to commit themselves to a permanent hiring situation. One of the positive benefits of a co-op experience is the fact that they both have some opportunity to test out the situation before deciding upon permanent employment.

NTID/RIT Staff Reactions

For DCO this experience with USS was one of their most comprehensive efforts in working with a major corporation. Consequently, many NTID staff were involved and a great deal was learned from these efforts that should assist them in improving and refining their future job development and placement activities with USS and other major corporations.

To understand better how DCO places students, it might be helpful to understand their relationship and interaction with the Rochester Institute of Technology. As one of the nine colleges of RIT, NTID is an integral part of RIT. NTID has the major responsibility for training and placing the deaf students enrolled at NTID/RIT. About 85% of the 700 students enrolled at NTID complete programs leading to a diploma, certificate, or associate degree in their career areas. The other approximately 15% of the NTID students who qualify, enter baccalaureate-level programs and take the same courses as RIT's hearing students. While DCO has the responsibility and accountability for placing all NTID graduates, a significant number of NTID students enrolled in RIT baccalaureate programs are placed in co-op jobs through the joint efforts of DCO, RIT's Central Placement Services (CPS), and RIT's College of Business. This joint system has some advantages in broadening the placement help given to deaf students because DCO can assist with its expertise on deafness and the results of its interactions with companies familiar with NTID, while CPS and the College of Business staff have knowledge of and contacts with corporations that normally recruit at RIT. On the other hand, the fact that there are several separate placement departments complicates the information-sharing process -- sometimes causing insufficient communication, duplication of efforts, and/or gaps in the placement process. This becomes especially true whenever DCO's placement work becomes as extensive and involved as it did with USS.

For those NTID representatives who visited USS operations, a great deal was learned about the steel industry and about job opportunities and environments in a major corporation. They appreciated the willingness and cooperation of the USS staff in arranging these tours and USS assistance afterwards in mutually selecting appropriate job-sites for NTID students. This should greatly enhance the employment experience for the students and provide a good foundation of knowledge for NTID's continuing work with other major corporations.

In the future, it would be helpful if a system were established to better share this type of information with appropriate NTID/RIT staff, particularly with persons such as placement counselors who deal directly with the students. In turn, the counselor's sharing of this information with the students might help to contribute to NTID's goal of dependency reduction by enabling the student to be better prepared for the real world of work and by increasing his understanding and appreciation of the efforts involved in creating appropriate employment opportunities for deaf persons. Hopefully, this would also make the student more sensitive and responsive to the expectations of the work environment.

Providing more thorough information about the USS experience to all personnel involved in placement can have good carry-over benefits for other NTID-corporate relationships. This is one of the major purposes of this particular report. In addition, it would also be useful to establish an on-going system of recording corporate information to provide everyone concerned with a readily accessible, continuing resource.

It was also obvious that the USS employers were confused about the various roles of the NTID/RIT staff members. Understandably, this kind of situation exists in almost any new placement situation, but was especially true in the USS situation because of the unusually large numbers of NTID/RIT staff involved. This becomes a problem when it interferes with the flow of information between the employer and the placement office. Perhaps some or all of the following suggestions might help to improve the communication flow:

1. The designation of one NTID person as the main coordinator and contact for USS. Being familiar with both USS and NTID/RIT, this person could pass on USS questions and concerns to the most appropriate staff person.

2. A fact sheet, brochure, or booklet explaining the interrelationships between the NTID and RIT placement departments which also includes a listing of NTID/RIT placement staff, phone numbers, and brief descriptions of the ways that they can assist employers. This could be shared with all USS personnel interacting with NTID/RIT. Something similar about the USS employers might also be developed and used by appropriate NTID/RIT staff.

3. A clarification of the specific roles and responsibilities of the NTID and RIT placement department staff with respect to the placement of NTID students.

FUTURE RELATIONSHIPS WITH USS

To continue to keep USS managers informed of the availability of NTID students who can meet their employment needs, DCO will send them regular forecast information twice a year and will continue to contact appropriate USS personnel regarding suitable candidates.

So that opportunities for NTID students can be expanded to other USS locations, DCO representatives plan to visit USS facilities in the Chicago area this fall (1976) in connection with some of their other job development efforts in that area. This visit will be facilitated through USS contacts in Pittsburgh.

All USS supervisors and managers of presently employed NTID students will be placed on the NTID focus mailing list. The focus magazine, which is issued quarterly at NTID, will keep them informed of many kinds of activities and events which should continue to enhance the employer's understanding of deafness.

RECOMMENDATIONS FOR FUTURE CORPORATE DEVELOPMENT[9]

In any major undertaking of this nature, a great deal can be learned not only about the experience itself but also about other similar relationships which have been and will continue to be established by NTID with other corporations. With these carry-over benefits in mind and with the intention of improving NTID's future corporate development, the following recommendations, including summaries of those previously mentioned within the body of this report, are suggested:

1. There is strong agreement among all constituencies involved that the employment experience can be greatly enhanced by mutual information-sharing that will prepare the employer, the student, and the NTID/RIT staff. This practice should continue in-person whenever it is possible. However, realizing that it will not always be feasible, economical, or possible to the extent that it was in the USS situation, it would be very helpful for DCO to develop a training package which could introduce employers to the work of NTID and assist them with their concerns in employing deaf persons. This could be sent to employers. It should include a description of NTID's career programs and contain guidelines for the employer to

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[9] This recommendations section of the report is intended primarily for internal use within NTID. At the same time, NTID does suggest that USS representatives, as well as other groups external to NTID, read this section so that they will be aware of some of the refinements which will be made in NTID's placement efforts. We also welcome comments and suggestions from these external groups in the hope of further improving our placement liaisons.

assist him in selecting appropriate jobs at his firm for potential NTID students. (Some of this will be incorporated in the FY77 plans of DCO and NTID's Departments of Public Information and Professional Development.) For employers who are able to visit NTID and who are visited by an NTID rep, this type of package could also serve as a handy resource for any additional company representatives, particularly supervisors, who become involved in an NTID employment experience.

2. More attention needs to be given to the co-workers of the deaf employee. While their preparation need not be as thorough or the same as that given to the manager and supervisor, it should be kept in mind that they also have fears and concerns about deaf persons. Some preparation, such as brief background information about NTID and communication tips, could help to meet their needs and enable them to better relate to the deaf employee.

3. Company information related to the history of NTID's interaction with a company, description of job duties, salaries, leaves of absence, benefits, etc. should be shared with all appropriate placement counselors. This information should also be shared with the student prior to his or her first employment experience.

4. If successive NTID students are hired at the same firm, new student employees should be informed of the names of the students who previously worked there. If possible, meetings of these students

should be arranged so that they can share their perspectives on their employment situation and assist the new employee with his concerns.

5. Some system should be established to help keep the employer informed about the student's related academic work each quarter.

6. DCO's employers' mailing list should be updated regularly so that all appropriate employers of NTID students receive mailings of such things as the employment forecast and focus. The selection of appropriate company staff names to be included in this should be incorporated into some stage of the placement process.

7. In any extensive placement effort with a major corporation, one DCO person should be assigned to serve as the company's coordinator.

8. A special NTID/RIT placement staff directory could be prepared and shared with the employer. A similar directory or information sheet containing employer names, major duties, and phone numbers of each major corporation working with NTID, should be developed and shared with NTID/RIT staff.

9. Some type of interim reporting system for NTID/RIT baccalaureate-level co-ops should be established to be used at the present time with NTID/USS co-ops.

10. Attention should be given to the employment forecast system now in use within DCO. It should be expanded to include information about the geographic preference of the student. Placement personnel should use this to give employers some approximation of the maximum numbers of students available for employment at their firm.

11. Regarding the interview process:
    a. Attempts should be made to prepare the recruiter for interviewing a deaf person. If possible, this should include some first-hand orientation about NTID and deafness. A booklet on interviewing tips for deaf employees would also be helpful. (Plans for this booklet are in progress.)
    b. Students should be given interview preparation. In addition to typical kinds of preparation, this could also include such things as opportunities for them to become sensitized to the discomfort associated with their deafness which is often experienced by recruiters and to give them tips on helping to put recruiters at ease.

12. The placement relationship between NTID and RIT should be more closely examined and duties should be more specifically defined.

13. A better, readily-accessible NTID/RIT system for recording important corporate information should be established.

CONCLUSION

In working closely with USS, NTID has established a good foundation that has paved the way for the successful entry of NTID students into a major corporation. A great deal has been learned from this comprehensive involvement that should assist NTID with its continuing efforts in the placement of the deaf. The information-sharing activities in particular, which enabled both NTID and USS to become better acquainted with each other's organizations and with their special concerns related to deaf persons, appear to be effective. At the same time, both NTID and USS need to keep in mind the fact that this information needs to be communicated to other appropriate constituencies within their environments in order to continue the initial efforts to best advantage for all concerned. It is intended that the detailed information contained in this report will be especially helpful in this regard.

Recognizing that a good foundation is an important beginning but realizing that further efforts must be made to continue the effectiveness of the program with USS, DCO will be focusing on the recommendations of this report. Several attepts have already been made along these lines and further plans are underway to refine our placement procedures. After this report is circulated, input will be gathered from several NTID departments in the interest of improving the effectiveness of all NTID's programs. As the relationship with USS continues, careful attention will be given especially to the area of upward mobility of NTID's graduates.

The commitment given by USS personnel to this project has been a very important ingredient in the success of this program. NTID appreciates their very significant cooperation and contribution towards the enhancement of career opportunities for the deaf. USS's efforts will have a significant impact on those students employed at USS as well as on future generations of deaf persons embarking on new careers.

List of Attachments

Attachment A - Descriptions of NTID Programs

Attachment B - Occupational Areas at USS

Attachment C - Pittsburgh Area Contacts for the Deaf

Attachment D - Questions Used in USS Interviews

Attachment E - USS Leave of Absence Form

ATTACHMENT A

May 12, 1975

Mr. John Frey
Coordinator of College Relations
U.S. Steel Corp.
600 Grand Street
Pittsburgh, PA 15200

Dear John:

In response to your inquiry of 4-25-75 pertaining to possible summer or cooperative opportunities, we are sending you the following information:

1. The Diploma Program (4 Quarters) in Industrial Drafting is designed to provide skills for entry into the field of industrial or mechanical drafting. Among the subjects taught are lettering, orthographic layout, assembly drawings, working drawings, pictorial representation, and industrial processes. Graduation from this program qualifies the individual for the position of Tracer, Detailer, or Junior Draftsman.

2. (a) The Diploma Program (4 Quarters) in Architectural Drafting is designed to provide skills for entry as a drafting trainee in architecture or one of the other construction related fields. Students study architectural presentation and working drawings, including dimensioning, lettering, and graphic conventions. Model building, construction materials and methods are also studied.

   (b) The Associate Degree Program in Architectural Technology (8 Quarters) includes training in drafting, graphics, reproduction, models, cost estimating, structural planning and construction methods. Purpose of the program is to train technicians to work in any of the fields related to architecture, construction and land development, city and regional planning, landscape architecture, building engineering, building products manufacture, and general contracting. Also included in the program is study of graphic presentation of design concepts and construction information.

   This program qualifies the individual for the position of Architectural Draftsman, Architectural Technician, Construction Engineering Draftsman, Model Maker, Renderer, Planning Aide.

ATTACHMENT A

3. The Associate Degree Program in Electromechanical Technology (9 Quarters) is built on both electrical and mechanical principles. The practical approach to the construction and service of electromechanical equipment and systems prepares the student for entry in a variety of industrial occupations such as Research Aide, Engineering Technician, Q.C. Technician, Service Technician, Electromechanical Draftsman, Automated Equipment Technician, Field Representative.

4. Course descriptions for the three upper level Technology Programs outlined in the enclosed brochures are found on the following pages of the Official Bulletin:

   (a) Bachelor of Civil Technology (BCT)
   pages 251 and 252.
   (b) Bachelor of Electrical Technology (BET)
   pages 252 - 255.
   (c) Bachelor of Mechanical Technology (BMT)
   pages 255 - 257.

5. The Program and Course outlines for the Bachelor of Science in Engineering Programs are found in the Official Bulletin on the following pages:

   (a) Electrical Engineering
   Program - pages 69 - 72.
   Courses - pages 188 - 191.

   (b) Mechanical Engineering
   Program - pages 75 - 78.
   Courses - pages 191 - 196.

The above information should give you a good picture of the programs in which your Company has expressed a specific interest.

A cooperative work experience should be directly in line with a student's major field. It should also increase in responsibility and complexity as his academic achievement grows.

The sub-baccalaureate programs (No. 1, 2, 3) do not at present have a formalized co-op program as the upper level programs (4, 5) have. Therefore, it will be necessary for us to know what specific disciplines you are interested in, so that we can see how many students might be available.

The idea of having an NTID student work for your Company during the summer is a very interesting one because it will give your Company a chance to get used to an NTID student and will give us an idea of how well our students would work out in your industry.

ATTACHMENT A

Any questions that you have or any further information that you need, please do not hesitate to call us.

Sincerely,

Richard S. Elliott	Anthony J. Finks
Occupational Liaison Specialist	Occupational Liaison Specialist
(716) 464-6216	(716) 464-6483

Enclosures

2r/TH114:sau

ATTACHMENT B

June 4, 1975

Mr. John Frey, P.E.
Coordinator of College Relations
United States Steel Corporation
600 Grand Street
Pittsburgh, PA 15200

Dear John:

We would like to share with you and other affected representatives of U.S. Steel some of our observations, perceptions and recommendations regarding our two day information sharing visit with U.S. Steel. I'm very sorry that this data was so long in arriving, but our recent travel schedules prevented our group from convening sooner. For ease of reviewing, it may be appropriate to analyze the various job environments and their potential for employment for the deaf in some sort of a chronological sequence, followed by general suggestions for strengthening the bridge between U.S. Steel and NTID. Let's look first at what our group felt about the various occupational areas we observed:

1. Edgar Thompson

   Needless to say, touring this very historic mill was a significant educational and learning experience for us. The BOP furnace, molten iron, steel ladles, slag pots and steel ingots, and most of all, the people, were incredibly interesting. The jobs these people were performing in an orderly and systematic fashion were the activities we witnessed most closely. The feelings of our team were that, without a doubt, many of our graduates would be technically competent to perform many of the technician and engineering level jobs at Edgar Thompson. However, we had to look beyond technical competency to the occupational environment itself. There is little doubt in our minds that extreme caution should be taken before any deaf person is placed in the mill area. Any placement in this area should be highly selective and the full communication potential for individuals understood in terms of the working area.

   Edgar Thompson does, however, have some areas which appear to offer greater potential. Specifically, we are referring to the repair and maintenance shops that we observed. If through some restructuring or modification more of the testing and repair work could be performed in these shops, these areas would be more appropriate for a deaf person. In light of our concerns, however, the team does not feel comfortable in recommending most jobs at Edgar Thompson as a place of employment for most deaf adults.

ATTACHMENT B

2. **Irvin Plant**

Again the operations (hot strip mill, shear and temper roll line, annealing line, electrolytic tinning line, and the galvanizing and aluminum coating line) were interesting lessons in the utilization of technology. One can truly sense how steel can be the hub of our economy and way of life. However, once again, many of the operations performed at the Irvin Plant appeared to be potentially inappropriate from a safety perspective for most deaf persons. Obviously, the areas which seemed the most appropriate were in the maintenance shop where it was indicated that approximately 20% of the electrical and machine repair work was performed in the shop environment rather than in the field. The second area which seemed to hold some promise was the machine shop where apparently 90% of the workers are "shop" personnel. I personally would feel comfortable in recommending qualified deaf workers for this area.

2B. Administration and Accounting Area (Irvin Plant)

The operations observed in the accounting areas seemed to be normal and typical in terms of scope and complexity. All of us felt that our graduates from our accounting and data processing programs could easily perform most of the jobs and that communications and safety would be little or no problem. However, the one discouraging aspect that was noted was the rigidity that exists with respect to entry level and mobility. This, of course, is a part of the union agreement and perhaps nothing can be done to alter or modify this condition. The NTID group feels uncomfortable about recommending a student in either accounting or data processing at the Associate Degree level for positions that will not utilize their capabilities or talents. This is, of course, part of the history that NTID is trying to erase. The entry level positions of key punch etc., could, however, be appropriate for an NTID student with a lesser amount of training and experience or more appropriately deaf students graduating from high school or from vocational training programs.

3. Administrative Service Center (Downtown Pittsburgh)

This area, managed by Mr. William Crawford, appears to offer a good amount of potential for many sub-baccalaureate graduates of NTID and other programs for the deaf. Almost all of the jobs (Deposit Clerk, File Clerk, reconciliation clerk, control clerk, etc.) appear to be compatible with the skill development of our students. Other areas such as data processing and even the duplication area where 6 Multigraphic 70's were in operation are equally appropriate.

ATTACHMENT B

4. Corporate Office

The Engineering, design and drafting areas that were visited in the Corporate offices were by far the most exciting in terms of offering potentially satisfying careers for our students. The match between job demands and skills offered by our students appear to be in close harmony. If any areas should be focused upon for further intensive investigation it would appear to be here.

RECOMMENDATIONS & CONCLUSIONS

To solidify a working relationship between U.S. Steel and NTID and continue the momentum already established, I would like to suggest that the following measures be considered:

1. General on-going communication

To facilitate communication between management personnel of U.S.S. and NTID, it may be appropriate to place several key U.S.S. personnel on the NTID Focus mailing list. In this way, NTID would be brought to the attention of these personnel every two months. In the same light, we would appreciate some official publications and other related material from U.S. Steel.

2. Film loans

The 30 minute film, The Silent Drum, can be made available to any U.S. Steel group if sufficient lead time is permitted. This movie, as you may know, is narrated by Rod Sterling and is an excellent overview of the history, philosophy and goals of the National Technical Institute for the Deaf.

3. Identification of preferred areas of employment

Perhaps it would be wise to select one or two key areas where a model employment situation could be established (either work experience or permanent). The engineering, design or drafting areas appear to be some of the most promising.

4. Closer analysis of work environment

After a tentative decision is made with respect to a target employment area(s), it would be appropriate to consider the skills required to perform the various jobs which were selected as potential areas of employment in more detail. Before any decision is reached to hire a student, I'm sure that both organizations would want to feel comfortable that the skill requirements and skill development were in close harmony.

ATTACHMENT B

6. Orientation

If U.S. Steel feels it advisable, NTID staff members are available for presentations to work groups in order to ensure the appropriate levels of understanding, communication and sensitivity related to deafness and employment.

Obviously, John, there are several other options that are available, but perhaps we should first consider the above. If you should feel that any or all of the above are appropriate, please let me know. We at NTID sincerely look forward to working with you or other representatives of U.S. Steel in this pioneering effort. I look forward to your reaction and continued support.

Sincerely,

Victor [illegible], Director
Occupational Liaison and Research
NTID

THD:bs
(r/2)

ATTACHMENT C

Pittsburgh Area Contacts for the Deaf

Director: Julianne Dillenburg, M.Ed.
Counseling and Communication Services
Center for the Deaf
The Park Building
355 5th Ave.
Pittsburgh, PA 15222
243-6255

Jan McManus
Vocational Rehabilitation Center
1323 Forbes Avenue
Pittsburgh, PA
471-2600

Pastor Stam
Trinity Lutheran Church of the Deaf
409 Swissvale Ave.
Pittsburgh, PA 15221
731-2550

Western Pennsylvania School for the Deaf
300 E. Swissvale Ave.
Pittsburgh, PA 15218
371-7000

DePaul Institute
Castlegate Ave.
Pittsburgh, PA 15226
561-4848

U. of Pittsburgh
Dept. of Special Education
4616 Henry St.
Pittsburgh, PA 15260
Frieda K. Hammermeister, Ph.D.
624-5187

Bureau of Vocational Rehabilitation
Patricia Ford, Counselor
300 Liberty Ave.
Pittsburgh, PA 15222

Pittsburgh Catholic Deaf Center
162 Steuben St.
Pittsburgh, PA 15220
Br. Rene Robert

Follow-Up Questions Used in Interview at USS

I. PREPARATION PHASE

(Initial contact through student interview)

Information from NTID

1. What were some of your major concerns regarding the possible hiring of deaf employees?

2. After some of your early contacts with NTID personnel, did these concerns change? After the orientation by NTID, what were some of your continuing concerns about deaf employees at USS? (Consider your own concerns as well as management, supervisors, and co-workers.)

3. Before interviewing a deaf student, what were some of your concerns? How did you feel after the interview?

4. What kind of information provided by NTID was particularly helpful to you? (Consider information regarding technical skills of students, and personal-social information about deafness and individual students.)

5. What kind of information (rē technical, communication, personal-social) is still lacking?

6. For future company orientations by NTID, what suggestions would you make?

ATTACHMENT D

Follow-Up Questions
Used in Interview at USS

I. PREPARATION PHASE

(Initial contact through student interview)

Information from NTID

1. What were some of your major concerns regarding the possible hiring of deaf employees?

2. After some of your early contacts with NTID personnel, did these concerns change? After the orientation by NTID, what were some of your continuing concerns about deaf employees at USS? (Consider your own concerns as well as management, supervisors, and co-workers.)

3. Before interviewing a deaf student, what were some of your concerns? How did you feel after the interview?

4. What kind of information provided by NTID was particularly helpful to you? (Consider information regarding technical skills of students, and personal-social information about deafness and individual students.)

5. What kind of information (re technical, communication, personal-social) is still lacking?

6. For future company orientations by NTID, what suggestions would you make?

ATTACHMENT D

Information from USS

1. Why did you become interested in the possibility of establishing a relationship with a school like NTID?

2. What other kinds of coop commitments have you already established with other schools?

3. In general, what kind of expectations and/or commitment is involved in typical USS coop programs? (on-going?, length?, promise of permanent employment?)

4. For NTID students, why did you decide to opt for a coop situation rather than permanent employment?

5. What departments at USS would be most likely to appropriately utilize NTID students?

6. How were salaries for NTID students determined?

7. How was the interaction with NTID unique compared to your involvement with other colleges?

ATTACHMENT D

II. IMPLEMENTATION PHASE

1. What was it about the students you selected that appealed to you?

2. What did NTID do that was especially helpful to prepare specific USS departments for the employment of a deaf person? What else could NTID do to help?

3. What were some of the unique difficulties that you encountered in the employment of a deaf person? How did you overcome these? Which ones still need attention?

4. How did you determine the student's job duties for the initial coop block?

5. How will you change job duties for subsequent coop blocks? What information could NTID provide that would be helpful to you in making these determinations?

6. In your estimation, how did the deaf student's job performance compare to yoUr experience with hearing coop student's performance with similar kinds of training? Do you feel that their technical training was relevant to the duties required of them?

7. What did you learn from this experience?

ATTACHMENT D

FUTURE INTERACTIONS BETWEEN USS AND NTID

1. What are your recommendations for continuing interactions between NTID and USS?

2. Are there other personnel at USS that NTID should anticipate contacting?

3. Because of the national scope of NTID and our desire to work with other divisions of USS in locations other than Pittsburgh, are there ways that you can be helpful to NTID in facilitating the flow of information about NTID to your other divisions?

4. What did USS personnel gain from this experience with NTID? What do you expect to gain in the future?

5. How did you think that your experience might be helpful to other companies interested in working with NTID?

1700

UNITED STATES STEEL CORPORATION ______________________________
(Works or Office)

APPLICATION FOR LEAVE OF ABSENCE

(To be Prepared in Quadruplicate and Submitted with Termination, Layoff and Transfer Notice (Form G-9125), Change in Employment Status (USS-4), or equivalent form used locally to Personnel Office.)

I, ______________________________ , a ______________________________
Full Name   Name of Position

______________________________ in the ______________________________ .
Employee No. or Check No.   Department

wish to make application for a Leave of Absence as follows:

For the period of __________ Months From ______________ to ______________ inclusive
(Starting date of leave)   (Expiration date)

For the reason of: ____

____

I make this application with the full understanding and acceptance of the following conditions:

1. That I agree to apply for reinstatement to my work not later than the day following the expiration
date as stated above, or on such earlier date as I may be ordered to report for work in accordance with
Paragraph 2, unless on or prior to such date I shall have notified the United States Steel Corporation
that I will be unable to report for work at such time due to sickness or other disability or shall have
applied for and been granted an extension of this leave of absence. If I do not so apply for
reinstatement to my work, or do not receive an extension of this leave of absence, it is understood that
I have quit the services of the United States Steel Corporation.

2. That the ______________ (Works or Office) has first claim on my services and that if I fail to
report for duty when and if I am recalled prior to the above mentioned expiration date, my services
with the United States Steel Corporation will be automatically severed thereby terminating any
insurance I may be carrying under a plan to which the Corporation contributes and breaking my
continuous service for all purposes provided, however, that the registered letter or the telegram
containing said recall be mailed or sent to me or my agent at my forwarding address which will be

____
(Street)   (City)

____
(State)   (Zip Code)   (Agent)

at least two full weeks prior to the date when I am ordered to report for duty, and provided
further that any failure to report for work upon such recall is not due to disability through no fault
of my own as a result of sickness or injury.

3. That, if I am eligible for and desire to continue my optional life insurance coverage, I will pay the required
premiums in accordance with the provisions of the insurance plan applicable to me.

4. That this application is subject to all provisions of the insurance plan and the pension rules applicable to
me, and that none of the conditions herein stated shall be construed as a modification of any such
provisions.

5. That I will be subject to such standards of employment as may be set by the Employment Procedure at the
time of the expiration of my leave and that my employability will be determined by such examinations,
including physical examination, as are then in effect.

6. That I will be given preference in securing the same position which I formerly held if it is still available, or
one equal in rank and wage or salary if such position is available.

______________________________   ______________________________
(Place and Date)   (Signature of Applicant)

This application for Leave of Absence:

Is ____ Is Not ____ Recommended ______________________________ ______________
Responsibility Head   Date

Approved ______________________________ ______________
Signature [illegible] Personnel Representative   Date

Authorized ______________________________ ______________
Dept. or [illegible] Head [illegible]   Date

Questions for the Record Directed to Dr. Frisina by Senator Randolph

Question. You state in your written testimony that 10 percent of your staff is handicapped and 8 percent are deaf. Does this mean 18 percent are handicapped?

Answer. No, the 8 percent who are deaf are included in the 10 percent who are otherwise handicapped.

Question. Of your handicapped employees, what percent are professional staff?

Answer. 82 percent of all handicapped individuals at NTID are professional staff; and of those who are deaf, the percent is also 82 percent.

[The following information was subsequently supplied for the hearing record:]

/*National Congress of Organizations of the Physically Handicapped*
"Opportunities with Dignity"

NATIONAL ASSOCIATION OF THE PHYSICALLY HANDICAPPED, INC.
A Membership Non-Profit Organization Incorporated In Michigan

phone: CO 5-2927
FE 7-5500 (Barney's)

NATIONAL LEGISLATIVE COMMITTEE
APARTMENT NO. 415
2445 - 15TH STREET, N. W.
WASHINGTON, D. C. 20009

March 30, 1977

Honorable Jennings Randolph
Chairman
Senate Subcommittee on the Handicapped
Washington, D. C. 20510

re: Programs for the Handicapped

Request for information, please

Dear Mr. Chairman-

The National Congress of Organizations of the Physically Handicapped (NCOPH) and the National Association of the Physically Handicapped, Inc. (NAPH) have several questions we wonder if the new Secretary of Health, Education and Welfare, Mr. Joseph A. Califano, Jr., would be willing to answer?

1- Are you satisfied with existing definitons of handicapped? Shouldn't there be a way to distinguish a long-term handicap from health conditions per se? (Being poor is one thing. Being poor and handicapped in one or more major life activities is two things.)

2- Were any handicapped individuals part of the advisory group re Energy conservation, gas guzzler cars, etc.? We handicapped have special needs in this respect, i.e. most compact cars are not large enough for us, our wheelchairs, the special hand controls, and readily accessible space to a handicapped driver to be as independent as possible. And 65 degrees increases our pain, arthritis, etc. We have to bundle up so much we can't function.

3- How can the many Federal programs serving the handicapped be coordinated with no mandated authority to channel all such programs through a management office for review and clearance, or control of grant and project authority, review and comment on Program development and development of model delivery systems?

4- If such a place with responsibile leadership, expertise, funds and accountability is created and placed in one (1) Federal Department -- through what means does it effect the same functions on the other federal departments and their programs, planning, etc. -- outside the one (1) in which it is housed? Needs of the handicapped call for appropriate linkage involving many federal departments and programs -- some of which occur in six (6) or more of the Cabinet level jurisdictions.

5- Can coordination and planning to meet the needs of handicapped individuals, or assure their rights as U. S. citizens, be left to administrative whim or edict when there is not a statement of national Government policy, or a law that provides the planning and coordinating responsibility, along with accountability, and a role in new program development, budget review, grants and project funding, and similiar mandated management controls?

6- Is approval or sharing of funding a clout strategy? It seems to us that permissive good will and "encouragement" to engage in cooperative planning lack strength to gain a leadership, directed management role.

7- At present, there is no equity relationship relative to income tax provisions between handicapped groups. (An employed blind person, for example, is entitled to 2 exemptions. If both the tax payer and spouse are blind, they are entitled to 4 exemptions, and at age 65 to 6 exemptions.) Is there some good rationale for this?

Mr. Chairman, I have sat here through eight (8) days of hearings. I was very disappointed to miss Mrs. Arabella Martinez yesterday when she appeared before the Senate Appropriations Subcommittee for Labor-HEW. I have some real concerns, viz.,

8- Is the Rehabilitation Services Administration being "zero budgeted" out of existence?

9- Are qualified handicapped employees being promoted within the federal departments, or are outsiders being brought in? I am very pleased with the appointment of Max Cleland to the VA, but I am distressed that the list of nominees supposedly being considered for the RSA Commissioner -- provided RSA remains --

are either persons whom I have never heard of or persons of whom I have heard and wouldn't want to think they supposedly would be watching out for the best interests of the handicapped.

10- For what it is worth, I, personally, would hate to see St. Elizabeths Hospital* transferred to the District of Columbia jurisdiction. I spent 21 days in St. Elizabeths as a depressed person who knew who I was and where I was and why I was there and what day it was, and the "benign neglect" accorded some patients is deplorable. But I have read nothing of the current D. C. government's management to make me think it would improve if removed from NIMH. I hope Mrs. Carter's personal interest will benefit emotionally ill persons, mentally ill persons, and mentally retarded persons.

11- I am also concerned about the genetic engineering, or DNA recombinant research, on which Hearings are being conducted in the other House on the other side of the Hill. I am happy that a use has been found for placenta. I wish there were some way of removing fat from overweight persons, liquefy it and transfer it to the wasted areas of handicapped persons. It would provide no muscle, therefore no strength; but it could cushion the thin skin from protruding bones, etc., and have also a cosmetic effect -- to both the "loser" and the "gainer"!

12- A new medical "rip off" of the patient is taking place in one office in Prince Georges County. All women, regardless of marital status or sexual activity or lack of same, are being required by one gynecologist to take a test for VD— venereal disease each time they have their regular check up. When his paramedic protested that it was an unnecessary expense he said their insurance would pay for it. And when she said not all patients have insurance, he said, "Let them go to a clinic."

13- Would you investigate the possibility of making the Willard Hotel housing for the handicapped? It is centrally located, had large doorways and large bathrooms and could be both permanent rooms and guest rooms. Section 202 funding cover this?

14- Will the new Convention Center being planned for Washington, D. C., be accessible to the mobility limited? I still have in my files letters I wrote requesting that the Arena Stage and the Hartke Theatre be constructed so to be accessible to wheelchair users, and you know neither one is.

15- I am hoping for great things from the White House Conference on Handicapped Individuals. I feel its success is insured with the recognition of minority reports and with some of the delegates, especially NAPH's own Ruth E. Loyster, a friend of a friend of yours - Paul Strachan. And COPH's Illinois Governor, August Christmann, a man you will want to make your friend, Mr. Chairman.

I request that answers be obtained to these questions. I further request that this be made a part of the Hearing Record, with the usual courtesy to extend and revise my remarks if necessary.

Sincerely,

Vicki Cox Stanton
Vicki Cox Stanton
Interim Chairman
National Legislative Committee
NAPH and NCOPH

copy: Mrs. Fran Halbeisen Lowder
National Chairperson
National Congress of Organizations of the Physically Handicapped (NCOPH)

Mr. George T. Stone
National President
National Association of the Physically Handicapped, Inc. (NAPH)

Mrs. Rose A. Wilson
editor
COPH Bulletin

Miss Geraldine Lurtz
editor
NAPH National Newsletter (NNN)

Miss Ruth E. Loyster
former national vice president, NAPH
former national Education and Research Committee Chairman, NAPH

Mr. August Christmann
Governor
Illinois Council of COPH

Mrs. Rosalynn Carter
President's Commissio
on Mental Health

Mr. Jack F. Smith
WHCHI

Rev. Msgr. Quinn

Honorable Robert Stafford, Senate Subcommittee on the Handicapped, Minority

Honorable Harrison Williams, Senate Subcommittee on the Handicapped

Honorable Thomas Eagleton And Honorable Senator Hatch -- welcome to the Senate!

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE
WASHINGTON, D.C. 20201

JUN 22 1977

The Honorable Jennings Randolph
Chairman, Subcommittee on the Handicapped
Committee on Human Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I have read the comments of Ms. Vicki Cox Stanton, Interim Chairman of the National Legislative Committee of the National Congress of Organizations of the Physically Handicapped with considerable interest. I will attempt to respond to those of her comments that appear to lie within the purview of my Department and concerns.

The definition of "handicapped" varies depending upon the program and service involved. The different definition emphasizes the handicapping condition in relation to the program. For example, a transportation program would define handicap differently than an education program. Regardless, both the Administration and the Congress continue to review legislative authorities and programs to determine whether changes are appropriate.

Ms. Stanton mentions including handicapped on the energy committee. Although energy is not under this Department's jurisdiction, you might be interested to know that I am placing high priority on recruiting handicapped individuals for our advisory committees.

The question Ms. Stanton raises on coordination of the myriad programs for the handicapped is one on which I myself am working. It is not only, as she perceives, a question of intradepartmental coordination but also of action between and among Departments. In view of the array of programs and the complexities involved in their coordination, fragmentation is a challenge, not only for the handicapped, but also for most target groups. I can assure her that we are working on "linkages" and that one of my highest priorities is to focus on the individual as a whole person with a variety of needs which must be met. We hope to achieve a large measure of the coordination we are seeking but must assess our activities and make changes in our program design and delivery systems in order to meet this challenge.

The issuance on May 4, 1977 of regulations such as those called for by Section 504 of the Rehabilitation Act of 1973, dealing with the rights of handicapped individuals, represents a single step in the direction of protection of the civil rights of handicapped individuals. We are now working on the implementation and enforcement of these regulations which should impact significantly on the lives of all of those affected.

Zero-based budgeting is being used throughout the Department of Health, Education, and Welfare as a means of assuring that our priorities are appropriately ordered. For the Rehabilitation Services Administration, zero-based budgeting should help to identify and sharpen the focus of some of its needs rather than work to its detriment.

We have at HEW an affirmative action program relative to the handicapped. We also work closely with the Civil Service Commission and the Commission on the Employment of the Handicapped to bring qualified handicapped persons into the Federal Government. While I have not as yet made final selection of the new Commissioner of Rehabilitation Services, I can assure Ms. Stanton that we have searched wide and at length in order to find the best possible person for the job. While this has not proceeded as rapidly as I would have liked, I expect to announce my selection shortly.

In closing, we appreciate Ms. Stanton's expressed hope for a very successful White House Conference on Handicapped Individuals. I attended the opening and closing sessions and was pleased to see the dedication of the handicapped to producing a good set of recommendations for us on ways they would like to see programs and services focused. We look forward to receiving those recommendations.

Sincerely,

Joseph A. Califano, Jr.

Senator RANDOLPH. The hearing is now adjourned.

[Whereupon, at 11:15 a.m., the subcommittee was adjourned.]

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